

Planning Commission
Regular Meeting
January 22, 2013
Martinez, CA

CALL TO ORDER

Chair Ford called the meeting order at 7:00 p.m. with all members present.

Staff present: Corey Simon, Senior Planner; Bill Dillard, Code Enforcement Officer.

ROLL CALL

PRESENT: Donna Allen, Commissioner, Harriett Burt, Commissioner, Rachael Ford, Commissioner, Jeffrey Keller, Commissioner, Paul Kelly, Commissioner, Sigrid Waggener, Commissioner, and Kimberley Glover, Commissioner.

EXCUSED: James Blair, Commissioner (Alternate).

ABSENT: None

AGENDA CHANGES

None.

PUBLIC COMMENT

None.

CONSENT ITEMS

1. *Minutes of December 11, 2012, meeting.*

On motion by Sigrid Waggener, Commissioner, seconded by Jeffrey Keller, Commissioner, to approve the Minutes of December 11, 2012, meeting. Motion unanimously passed 4 - 0. Yes: Rachael Ford, Commissioner Jeffrey Keller, Commissioner Sigrid Waggener, Commissioner, Kimberley Glover, Commissioner, Abstain: Donna Allen, Commissioner, Harriett Burt, Commissioner, Paul Kelly, Commissioner.

REGULAR ITEMS

2. *Kramer Residence 12PLN-0010 Public hearing on an appeal of the approval decision of the Zoning Administrator to grant Use Permit, Variance and Design Review approvals to expand an existing 2-car garage structure within the front yard, adding parking for 2 additional cars and an approximate 800 sq. ft. studio above. Use Permit approval is required to allow an Accessory Structure over 1,000 square feet, in size, with a height of approximately 18 feet when a maximum of 15 feet is normally allowed. Variance approval is required to allow new construction without a front yard, where a minimum 20' yard is*

normally required to be located at 1020 W. Arlington Way. Applicant: Gus Kramer (CS)

Applicant requested continuance to Feb 26th.

By consensus, Commission agreed to the postponement.

3. DeVaney Citation Appeal hearing for Administrative Citation #131, M.M.C. Section 15.04.035 - regarding the proper placement and storage of garbage carts on non-collection days.
Staff requests the Planning Commission hear an appeal of an Administrative Citation issued to the property owner for leaving garbage carts out on non-collection days located at 50 Brodia Court.
Applicant: Kenneth & Rachel DeVaney (BD)

Code Enforcement Officer Bill Dillard presented the staff report, discussing the background and details of the citation, and the subsequent appeal by the DeVaneys.

Commissioner Burt asked about the video the appellants' claim shows a neighbor placing the cans in front of the house, and the neighborhood dispute that has resulted in false charges being made by neighbors against the appellants. She also noted she had visited Brodia Court and saw a large sign saying "Liar" in another neighbors' yard. Mr. Dillard said he was aware of the neighborhood dispute

Chair Ford asked what Allied Waste has said about the garbage cans and the potential misplacement of cans. Mr. Dillard explained that the cans have numbers on them to identify which cans go with each address. He acknowledged that they are more lenient about placing of cans in a court situation.

Chair Ford asked whether staff has seen the video made by the DeVaneys.

Commissioner Allen asked whether Allied Waste services cans left in the middle of a cul-de-sac. Mr. Dillard said yes, provided there is room for the truck to turn around.

Meeting paused to allow staff to watch the video submitted by the appellant and resumed at 7:22 p.m. with all members present as indicated. Copies of photos and the police reports regarding the alleged moving of garbage cans were given to the Commission.

Commissioner Glover asked why the cans in the pictures have #50 on them if they are not the DeVaneys' trash cans. Mr. Dillard said Allied Waste does not put numbers - that is up to residents if they want to. In response to a further question from Chair Ford, he noted he had told neighbors they could move cans on non-collection days if they were left out in front of a different address than the owner.

Appellants Ken & Rachel DeVaney said their trash cans do not have #50 on them, and they discussed the continued dispute with their neighbor at 41 Brodia Court, who even ordered

new cans and put #50 on the. They indicate their trash cans are in the backyard and are put out on pickup day and brought in immediately after pickup. They also discussed the derogatory signs put up by another neighbor. They noted they have copies of police reports filed by them in regard to the moving of garbage cans.

The Commission asked staff whether they had seen the police report; Mr. Dillard said he was not aware of it earlier.

Commissioner Burt asked the appellants why they hadn't told Mr. Dillard about the police reports; they said they did make staff aware of the dispute with the neighbor. Ms. DeVaney said if Mr. Dillard had knocked on door she would have shown him where her cans were in the backyard.

Ms. DeVaney also asked if the neighbor's sign could be removed; Chair Ford said that is not under the purview of the Planning Commission.

Chair Ford opened and closed the public hearing with no speakers coming forward.

Commissioner Glover asked what the Commission could do now. Commissioner Waggener suggested allowing staff time to review and follow up on actual events.

Chair Ford asked what staff can do. Mr. Dillard said it would not be Code Enforcement responsibility to mediate. He acknowledged this is the first time he issued a citation for garbage cans being in the wrong location on non pickup days. Chair Ford said she thought the Commission should step out of matter and not uphold the fine.

Commissioner Burt said she thought something more should be done, whether mediation or litigation. She recommended the DeVaneys consider contacting a legal aid organization for assistance. She acknowledged these issues can be difficult but this does seem to be a matter for Police, not Code Enforcement. Mr. Dillard agreed and indicated he will refer the issue to the police department.

Commissioner Glover agreed with Chair Ford that this is not a compliance issue.

Commissioner Allen asked whether staff would still recommend denial of the appeal. Mr. Dillard said carrying it over would allow him time to review and determine whether compliance is really the issue.

Chair Ford confirmed with staff that another citation could be issued later once further investigation is finished. She would rather grant the appeal. Commissioner Waggener agreed.

Commissioner Allen expressed understanding but said she would rather uphold staff's recommendation. Mr. Dillard said he thought it should be reviewed by him further; then he could withdraw the citation if it seemed prudent.

Commissioner Kelly said the police report indicated that Allied Waste had confirmed it was not

the DeVaneys who ordered the cans. He and Vice Chair Keller agreed that the appeal should be upheld.

On motion by Donna Allen, Commissioner, continue the item to allow staff to further review the information provided by the DeVaneys and consider whether the citation is valid. Motion failed due to lack of a second.

On motion by Sigrid Waggener, Commissioner, seconded by Paul Kelly, Commissioner, grant the Appeal of Administrative Citation #131 regarding the proper placement and storage of garbage carts on non-collection days and return the \$100 fine paid by the appellants. Motion unanimously passed 7 - 0. Yes: Donna Allen, Commissioner Harriett Burt, Commissioner Rachael Ford, Commissioner Jeffrey Keller, Commissioner Paul Kelly, Commissioner Sigrid Waggener, Commissioner, Kimberley Glover, Commissioner.

Commissioner Burt confirmed with Mr. Dillard that he will follow up with the police to share the information he has. He indicated he will return the DeVaneys' check for now, but will re-issue the citation if necessary.

COMMISSION ITEMS

4. *Election of Chair and Vice Chair.*

Commissioner Allen asked whether the position of chair usually moves through the Commission by seniority. Mr. Simon said that is the custom, but is not a requirement.

Vice Chair Keller indicated he had no desire to serve as chair.

On motion by Paul Kelly, Commissioner, seconded by Kimberley Glover, Commissioner, to approve keeping Rachael Ford as chair, as there have been so few meetings during the past year, and electing Sigrid Waggener for vice-chair. Motion unanimously passed 7 - 0. Yes: Donna Allen, Commissioner Harriett Burt, Commissioner Rachael Ford, Commissioner Jeffrey Keller, Commissioner Paul Kelly, Commissioner Sigrid Waggener, Commissioner, Kimberley Glover, Commissioner.

STAFF ITEMS

There was brief discussion of the next meeting scheduled for February 26th, which will include the Kramer appeal.

COMMUNICATIONS

None.

The meeting adjourned at 7:58 p.m., to the next meeting of February 26, 2013

Respectfully submitted

Approved by the Planning Commission
Chairperson

Mary Hougey

Rachael Ford

DRAFT