

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, July 24, 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: Allison Ernst, Yvonne Lujan-Slak

Board Members Absent: Mike Castellucci, Rudy Martinez

Staff Members Present: Jeff Bailey, P.E., Assistant City Manager for Development Services; Carrie Muchow, Planner; Ramona Baca, Court Reporter and Paul Willumstad, Board Attorney.

APPROVAL OF MINUTES

Motion to approve the minutes from the May 22, 2012 meeting by Ernst, second by Lujan-Slak.

Motion passed 3-0.

APPROVAL OF AGENDA

Motion to move three items, ZBA 029-2012, ZBA 025-2012, and ZBA 028-2012 to the consent agenda by Ernst, second by Lujan-Slak. Mr. Burrer asked if there was anyone in attendance who came to speak in opposition, seeing none, called for a vote.

Motion passed 3-0.

COMMISSION ACTION

Motion to approve Consent agenda (cases ZBA 031-2012, ZBA 036-2012, ZBA 037-2012, 019-2012, 026-2012, 032-2012, 029-2012, 025-2012, and 028-2012) subject to staff conditions, by Ernst, seconded by Lujan-Slak.

Motion passed 3-0.

PUBLIC HEARINGS AND ACTION

CONSENT AGENDA
Special Use Permits

1. 029-2012 201 Madison St. (Charity Decker) R-3

A **Special Use Permit** to allow a home business for tutoring children.

Staff Report by Carrie Muchow

Synopsis

The subject property is located in the Mesa Junction neighborhood. According to Section 17-4-51 (6)(c)(6) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a home business to tutor children with dyslexia.

The applicant is proposing one (1) child at a time, for about an hour, three (3) to four (4) times a day from 8am to 5pm.

Analysis

The applicant has a good location and lot layout for her proposed use. Within the same block as her there are offices and the Mc Clelland School so her block is already trafficked by children, parents, and other people outside the neighborhood.

The applicant has ample parking available on-site to accommodate the one child per hour she proposes so the visitors would not affect the neighborhood in terms of parking. Staff also doesn't feel that the proposed number of visitors per day is inappropriate for a home business, especially in this area.

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

1. The business must be conducted within the house, not in any accessory building on the property.
2. No more than four (4) visitors per day.
3. Hours will be kept to 8am to 5pm.
4. No more than one (1) child being tutored and one (1) child waiting at a time.
5. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s):

1. The business must be conducted within the house, not in any accessory building on the property.
2. No more than four (4) visitors per day.
3. Hours will be kept to 8am to 5pm.
4. No more than one (1) child being tutored and one (1) child waiting at a time.
5. Standard permit conditions 1-13.

Motion passed 3-0.

2. 031-2012 2610 N. Grand Ave. (Kendra Duran) R-3

A **Special Use Permit** to allow a home daycare.

Staff Report by Wade Broadhead

Synopsis

The subject property is located in the North Side Neighborhood. According to Section 17-4-51 (6)(c)(3.1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a home daycare for a maximum of eight children under 12 years of age.

Analysis

The State of Colorado requires 75-square feet of open play space per child for home day cares. With eight children, the minimum area needed is 600 square feet. The applicant's yard allows for more than 600 square feet as part of their designated play area. City Staff defers to the State Department of Human Services; Division of Child Care to further inspect and license the operation. Staff did not locate any sex offenders within one block of the proposed use.

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

1. Standard permit conditions 1-13.
2. Provide proof of State Daycare License in 180 days.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s):

1. Standard permit conditions 1-13.
2. Provide proof of State Daycare License in 180 days.

Motion passed 3-0.

3. 036-2012 38 William White Blvd. (City of Pueblo Wastewater Department) S-1

A **Special Use Permit** to allow an existing pump station area for the purpose of adding a new chemical feed building.

Staff Report by Wade Broadhead

Synopsis

The subject property is located in the Pueblo Airport Industrial Park. According to Section 17-4-30 (a) (3) of the Pueblo Municipal Code (PMC), certain facilities related to the operation of utilities require a special use permit due to their potential impact on the surrounding community. The City of Pueblo detected issues relating to the odor and has noticed corrosion from Hydrogen Sulfide Gas in two wastewater lift stations at the Airport Industrial Park and proposes erecting a small shed at both locations to house chemicals used to treat the problem and deter corrosion. This location, lift station #2 will receive one 17' x 9' wooden shed, as well as a eight (8) foot tall chain link fence.

Analysis

The #2 lift station was constructed in the 1980s to service the airport industrial park and has been in operation since that time. The site is specifically located on a long linear parcel designed to provide utilities to the

industrial park. The facility is located 560 feet southeast of the B.F. Goodrich facility, itself a heavy industrial use. County residences are situated over 700 feet to the south across Highway 50, making this an ideal site for a small lift station with little to no impact on surrounding uses. The existing lift station and equipment is currently fenced and protected with barbed wire. The lift station and additional equipment, chemicals, and supporting shed are needed for the city to provide adequate wastewater service to the Airport Industrial Park and it is anticipated the improvements will have no negative impact on the surrounding community.

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

1. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s):

1. Standard permit conditions 1-13.

Motion passed 3-0.

4. 037-201233551 United Ave. (City of Pueblo Wastewater Department) S-1

A **Special Use Permit** to allow an existing pump station area for the purpose of adding a new chemical feed building.

Staff Report by Carrie Muchow

Synopsis

The subject property is located in the Airport Industrial Park. According to Section 17-4-30 (a)(3) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit for an existing pump station where the equipment is fenced, in order to add a chemical feed building.

The pump station was constructed in the 1980s prior to the requirement to receive a Special Use Permit through ZBA was added to the Code. Now, the City has detected issues relating to odor and has noticed corrosion problems from Hydrogen Sulfide Gas in two pump stations at the Airport Industrial Park. In order to fix the issues, Wastewater is proposing to add a small shed at both locations to house chemicals used to treat the problem and deter corrosion. The new building will be seventeen feet by nine feet (17'x9') wooden shed.

Analysis

The pump station was constructed in the 1980s and there have been no issues with it since that time. The surrounding area is comprised of all heavy industrial uses and County residences are approximately 680 feet away, making this an ideal site for a pump station with little to no impact on surrounding uses. The existing equipment is fenced and protected with barbed wire. All equipment is needed for the City to provide adequate wastewater service to the Airport Industrial Park and it is anticipated the improvements will not only have no negative impact on the surrounding community, but will improve the functionality of the facility.

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

1. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s):

1. Standard permit conditions 1-13.

Motion passed 3-0.

PUBLIC HEARINGS AND ACTION

CONSENT AGENDA

Variances

5. 019-2012 2221 S. Prairie Ave. #91 (John Hydash) R-7

A **Variance** to allow a new carport to encroach into the side yard setback and not meet architectural compatibility standards.

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Beulah Heights Neighborhood near the intersection of Prairie Ave. and Ivywood Ln. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow a new carport to encroach four feet (4') into the five foot (5') side yard setback.

Analysis

Over the years, this park has received many Variances for similar uses and amounts. In fact, 25% of spaces in the park currently have a Variance to allow a carport to sit in a side yard setback. None of these Variances seem to have had an adverse affect on the park or the homes and driving through the park you can tell the park and the homeowners take pride in maintaining the neighborhood.

The neighboring space has built a small addition on to the side facing the proposed carport which sits approximately four feet (4') from their property line. This space plus the one foot (1') gap to the property line the applicant is proposing will leave enough room to maintain the structure. The applicant has stated that placing the carport here is acceptable to his neighbor however, Staff recommends that the applicant be required to bring in a signed letter from the neighbor stating this and that the applicant has permission to go on to the neighboring property if necessary to maintain the carport. Staff also recommends that the applicant be required to get a similar letter from the park owner or manager stating that in the event the neighbor moves, the park will guarantee at least four feet (4') on the neighboring property for access to this carport.

Currently there is no covered parking for the property and the proposed location of the carport does appear to be the best option for placement.

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

1. The applicant must provide a letter from the neighboring owner and from the park owner or manager stating that he has permission to access the carport on the neighboring property for maintenance purposes.

2. The carport must be maintained in a clean, repaired manner.
3. The carport may never be enclosed.
4. All storm water must be directed away from neighboring properties.
5. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s):

1. The applicant must provide a letter from the neighboring owner and from the park owner or manager stating that he has permission to access the carport on the neighboring property for maintenance purposes.
2. The carport must be maintained in a clean, repaired manner.
3. The carport may never be enclosed.
4. All storm water must be directed away from neighboring properties.
5. Standard permit conditions 1-13.

Motion passed 3-0.

6. 025-2012 1001 E. 8th St. (Gabe Martinez) R-4

A **Variance** to allow a new garage to encroach into the second front and side yard setbacks.

(Continued from the June 26th Meeting)

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Eastside Neighborhood at the intersection of 8th St. and Iola Ave. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow a new garage to encroach into the second front yard setback by ten and a half feet (12.5') and the side yard setback by five feet (5'). The applicant wishes to replace a current garage that is dilapidated and unsafe with a new, slightly larger garage and would like to be able to utilize the same concrete foundation as the old garage.

Analysis

The current garage to be removed sits on both the North and West property lines. While most garages in this area are not setback the full required amount, they do not sit right on the property lines. Having a structure right on property lines makes it difficult to maintain the structure from the property and in many cases will cause roof eave or rain gutter trespass problems. It is also important to note that in this particular case the applicant is not intending to use the existing foundation.

If the proposed garage were required to meet all setbacks, the back yard would be severely diminished and would become significantly less useable.

Based on the development pattern of the neighborhood and yard configuration of the applicant's property, Staff does not feel it's unreasonable for the garage to move in from the alley two feet (2') and in from Iola to sit in line with the house.

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

1. The garage must sit two feet (2') from the side property line and even with the plane of the house along Iola, approximately nine feet (9') from the back of sidewalk.
2. Gutters and downspouts must be installed and all runoff must be diverted away from neighboring properties.
3. The garage must be architecturally compatible to the home and not taller than the home.
4. No other detached accessory structures over 160 square feet are allowed.
5. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s):

1. The garage must sit two feet (2') from the side property line and even with the plane of the house along Iola, approximately nine feet (9') from the back of sidewalk.
2. Gutters and downspouts must be installed and all runoff must be diverted away from neighboring properties.
3. The garage must be architecturally compatible to the home and not taller than the home.
4. No other detached accessory structures over 160 square feet are allowed.
5. Standard permit conditions 1-13.

Motion passed 3-0.

7. 026-2012 1810 Aquila Dr. (Greenhorn Builders) R-4

A **Variance** to allow an existing porch to encroach into the rear yard setback.

(Continued from the June 26th Meeting)

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Ridge Neighborhood near the intersection of Outlook Blvd. and Pioneer Rd. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow an existing porch to encroach into the rear yard setback by two feet, one inch (2'1"). The applicant mistakenly thought a porch was considered an overhang as opposed to part of the house when it came to setback requirements. If a porch was considered an overhang, it would be allowed to encroach up to 24 inches into the setback without penalty so the builder believed the encroachment would be ok.

The encroachment was discovered as part of a routine Certificate of Occupancy (CO) inspection by Staff and as part of issuing a temporary CO to allow the new owner to close on the home and move in, the builder was required to apply for a Variance.

Analysis

The lot is smaller than most lots in the area due to the curve of the cul-de-sac so the depth of the lot ends up shorter making it more difficult to place homes. The porch is open and the majority of the back of the home is well out of the setback so the visual impact of the encroachment is minimal. Staff does not believe there will be any ill effects on the surrounding property or to this property from the two foot (2') encroachment.

The builder misunderstood how the setback rules are applied and simply made a mistake; the encroachment was not done on purpose or with malice and is not a large encroachment. The builder has taken full responsibility for the mistake and understands how the setbacks work in Pueblo so this type of mistake should not happen in the future.

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

1. The porch may never be enclosed.
2. The amount of encroachment may never be increased.
3. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s):

1. The porch may never be enclosed.
2. The amount of encroachment may never be increased.
3. Standard permit conditions 1-13.

Motion passed 3-0.

8. 028-2012 308 Grace Ave. (James Moore) R-1

A **Variance** to allow a new garage to encroach into the side and rear yard setbacks.

(Continued from the June 26th Meeting)

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the Aberdeen Neighborhood near the intersection of Carlile Ave. and N. Prairie Ave. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow a new garage to encroach into the rear yard setback by five feet (5') and into the side yard setback by two feet (2').

The applicant wishes to replace a dilapidated garage with a new one of the same size, on the same foundation, but with better construction.

Analysis

The current garage is in the same location as the proposed garage and sits in a standard location for garages in this area. Most garages sit close to side property lines and at the back property line. The proposed side setback will allow enough room to properly maintain the structure without trespassing on the neighboring property.

If the proposed garage were required to meet all setbacks, the back yard would be severely diminished and would become basically unusable.

Based on the development pattern of the neighborhood and yard configuration of the applicant's property, Staff does not feel it's unreasonable to replace the current garage with a same-sized garage on the existing foundation.

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

1. Gutters, downspouts, and overhangs must be within the property and not hanging into the alley.
2. Gutters and downspouts must be installed and all runoff must be diverted away from neighboring properties.
3. In order for the garage to be architecturally compatible to the home, the roof must be a hip roof as opposed to the proposed gable roof. All paint and roof colors, and siding and roof materials must also match the home.
4. No other detached accessory structures over 160 square feet are allowed.
5. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s):

1. Gutters, downspouts, and overhangs must be within the property and not hanging into the alley.
2. Gutters and downspouts must be installed and all runoff must be diverted away from neighboring properties.
3. In order for the garage to be architecturally compatible to the home, the roof must be a hip roof as opposed to the proposed gable roof. All paint and roof colors, and siding and roof materials must also match the home.
4. No other detached accessory structures over 160 square feet are allowed.
5. Standard permit conditions 1-13.

Motion passed 3-0.

9. 032-2012 624 Euclid Ave. (Lawrence Hartman) R-2

A **Variance** to allow a new garage to encroach into the side yard setback.

(Continued from the June 26th Meeting)

Staff Report by Carrie Muchow.

Synopsis

The subject property is located in the State Fair Neighborhood near the intersection of Saint Clair Ave. and Euclid Ave. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow a new garage to encroach into the side and rear yard setbacks.

The proposed garage is replacing an existing garage that sits right on the Southern property line. The new garage would sit two feet (2') from the Southern side property line and two feet (2') from the rear property line.

The applicant wishes to replace the existing garage that is not as functional for him and is also extremely close to his neighbor's house. The applicant feels moving it back and two feet (2') off the property line will help his neighbor while still keeping a useable section of his yard.

Analysis

The applicant is only asking for a one car garage so which is a reasonable request considering the weather here. Half the lots along this block have accessory structures that sit either at or two feet (2') off the rear property line. There are many structures that sit either on the side property lines or very close so having the new garage sit two feet (2') off the side would not be out of place for the neighborhood. It also puts the garage farther away from the neighboring home than the current one and allows enough room to properly maintain the structure without trespassing.

It's also important to note that the applicant has received four (4) letters of support from surrounding homes, including one from the neighbor to the South who would be most affected by this Variance.

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

1. Garage must be architecturally compatible with the home.
2. Gutters and downspouts must be installed and all storm water runoff must be diverted away from the neighboring properties.
3. Standard permit conditions 1-13.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s):

1. Garage must be architecturally compatible with the home.
2. Gutters and downspouts must be installed and all storm water runoff must be diverted away from the neighboring properties.
3. Standard permit conditions 1-13.

Motion passed 3-0.

PUBLIC HEARINGS AND ACTION

REGULAR AGENDA

Variances

10. 020-2012 2113 E. Evans Ave. (T.L. Printz Constructors) CCN

A **Variance** to allow a reduction in required parking spaces and landscaping.

(Continued from the June 26th Meeting)

Staff Report by Carrie Muchow

Synopsis

The subject property is located in the Bessemer Neighborhood near the intersection of Indiana Ave. and I-25. The applicant is requesting a variance from Sections 17-4-7 (b) (3) b. and 17-4-43 (b) (7) of the Pueblo Municipal Code (PMC), to allow a reduction in the required amount of parking and landscaping. The applicant is adding an addition on to the rear of the existing restaurant which requires the property to come into compliance on parking and landscaping. The property is required to have seventeen (17) on-site spaces however the property can only fit five (5).

The property is also required to have a number of landscaped parking lot islands and streetscape areas but to include these would require taking out more parking spots.

The CCN zone allows for up to 100% variance for parking and 50% for landscaping.

Analysis

The applicant has tried multiple configurations of the site to get either the required number of spaces or to get at least 50% of the required number but the site can't accommodate it. There are 3 additional street parking spots directly in front of the property as well as street parking along the entire rest of the block but since these are off-site they don't officially count towards the total. The amount of parking offered, both on and off-site, will not change and since the addition is not adding tables, the addition should not negatively impact the parking in the area. Staff has discussed the site with Transportation Staff and they are ok with the proposed addition, parking plan, and number of provided spaces considering the on-street parking.

There is not enough back-up room for the handicapped space to allow space number 2 (as labeled on the submitted plan) therefore space number 2 must be removed.

The area available for landscaping, like the parking, is very limited on this site, even if the building was not added on to. There is no room to place landscaping along the street like in most situations since that area is taken up with on-street parking. If more landscaping were to be put along the side and in back, the site would lose even more parking.

Staff believes that it is important to support business owners in the older areas who wish to improve the area and their property. The owner in this case has tried to work with the City to the extent the property will allow and has met all the regulations he can. To deny the Variance would mean the owner would not be reinvesting in the neighborhood and no improvements would be made to the site.

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

1. All on-site parking must be striped according to the submitted plan.
2. A landscaped area adjacent to the alley and handicapped parking stall must be added.
3. Landscaping must be added in front of the store in planters. In order to ensure there are no conflicts with pedestrian access on the sidewalk, the final landscape plan will be reviewed and approved by Staff at the Planning and Community Development Department.
4. All work must have appropriate building permits.
5. Since space number 2 (as labeled on the submitted plan) must be removed, the other parking spaces must shift West as much as possible, while still maintaining the proper backing radius for the handicapped space, to allow the planter at the front of the lot to be enlarged for adequate planting.
6. The Variance is contingent upon the Planning and Zoning Commission and City Council approving the zone change from B-2 to CCN.
7. The owner must either complete the lot line rearrangement process to combine the parking lot parcel with the building parcel or deed restrict both parcels to tie them together.
8. Standard permit conditions 1-13.

Tom Printz and Gary Trujillo testified in favor of the application.

Chris Gillispie testified in opposition of the application.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s)

1. All on-site parking must be striped according to the submitted plan.
2. Since space number 2 (as labeled on the submitted plan) must be removed, the other parking spaces must shift West as much as possible, while still maintaining the proper backing radius for the handicapped space, to allow the planter at the front of the lot to be enlarged for adequate planting.
3. All work must have appropriate building permits.
4. The Variance is contingent upon the Planning and Zoning Commission and City Council approving the zone change from B-2 to CCN.
5. The owner must either complete the lot line rearrangement process to combine the parking lot parcel with the building parcel or deed restrict both parcels to tie them together.
6. Landscaping must meet 50% of the required landscaping in the following order of priority:
 - a. The landscape planter at the end of the parallel parking strip towards E. Evans Ave.
 - b. Landscape planters in the front of the building to be reviewed and approved by Staff at the Planning and Community Development Department to ensure ADA access requirements are met for the sidewalk.
 - c. Landscaping planter adjacent to the handicapped parking stall at the rear of the building.
7. Standard permit conditions 1-13.

Motion passed 3-0.

11. 027-2012 530 W. Grant Ave. (Les Robinson) R-2

A Variance to allow a new garage to encroach into the second front yard setback.

Staff Report by Carrie Muchow

Synopsis

The subject property is located in the Mesa Junction Neighborhood at the intersection of Grant Ave. and Tyler St. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow a new garage to encroach into the second front yard setback by twelve and a half feet (12.5').

The owner has done a lot of work on the property over the last year and now wishes to add a garage to the property.

Analysis

The applicant stated in his narrative that the garage would be in line with the neighbor's fence in order to be cohesive with the property; however, no other structure along this block is at the property line like the proposed garage would be. Most houses are setback farther than 530 W Grant along Tyler with the minimum setback of the block being approximately nine feet (9') at the other end of the block.

Based on the development of the neighborhood, the size of the lot, and Staff's site visit, Staff has determined that it would be appropriate for the garage to sit even with the side of the home along Tyler. This citing would not require a Variance and would still afford the owner a significant amount of space for the back yard. If the owner desired more of a backyard than this would allow, the option would be to build a one car or an oversized one car garage as opposed to the two car garage proposed.

Staff feels that allowing a garage to be closer to the property line as compared to not only the house on the property but all others along the block, across the street, and blocks in both directions would be a very inappropriate development pattern especially considering the owner can meet setback requirements and still use the rest of the property.

Staff recommends **DENIAL**. If the Board decides to approve the Variance request, Staff recommends the following conditions:

1. Standard permit conditions 1-13.
2. All storm water run off must be diverted away from neighboring properties.
3. The encroachment is limited to the twenty four feet (24') width of the proposed garage.
4. The garage must be architecturally compatible with the house.
5. The garage may never be expanded.
6. All gutters, eaves, and downspouts must be on the property and not in the right of way.

Les Robinson testified in favor of the application.

COMMISSION ACTION

Motion to deny by Ernst, second by Lujan-Slak.

Motion passed 3-0.

12. 033-2012 1308 E. 3rd St. (Leroy Hensley) R-2

A **Variance** to allow an existing storage container to encroach into the side yard setback.

Staff Report by Carrie Muchow

Synopsis

The subject property is located in the Eastside Neighborhood near the intersection of 3rd St. and LaCrosse Ave. The applicant is requesting a variance from Section 17-4-2 of the Pueblo Municipal Code (PMC), to allow an existing storage container to encroach into the side yard setback by one and a half feet (1.5').

The metal storage container was discovered as a violation by the Code Enforcement Officers and has been a violation case for a few years. It has been determined since the start of the violation that the container was probably placed prior to the Accessory Structure Ordinance going into effect and so does not need to meet architectural compatibility requirements that accessory structures today do. The structure is, however, too close to the side property line.

The applicant states he received verbal approval from the Planning and Community Development Department to place it three feet (3') from the side property line and five feet (5') from the alley.

Analysis

Variations are given when there is some kind of hardship to the property and in this case the lot is one of the largest in the neighborhood and there is plenty of room in the rear yard to meet all setbacks and maintain a completely useable yard.

The applicant states that he received verbal approval for the structure, however, this office has no records of side setbacks ever being anything less than five feet (5') and even metal structures require permits so if permission had been granted, it would have been done by sign off of a plan like all other permits during this period.

This container is a metal semi truck trailer and it has been allowed to rust along the edges making it look uncared for and more of an eyesore than a large semi trailer otherwise would.

Staff recommends **DENIAL**. If the Board feels it is appropriate to grant the Variance, Staff recommends the following conditions:

1. It must be made to be as architecturally compatible as possible by painting the entire structure to match the house.
2. The container needs to be screened from all sides utilizing a six foot (6') tall, opaque fencing material or tall hedges.
3. Standard permit conditions 1-13.

Leroy Hensley testified in favor of the application.

COMMISSION ACTION

Motion to approve by Ernst, second by Lujan-Slak with the following condition(s)

1. It must be made to be as architecturally compatible as possible by painting the entire structure to match the house.
2. The container needs to be screened from all sides utilizing a six foot (6') tall, opaque fencing material or tall hedges.
3. Standard permit conditions 1-13.

Motion passed 3-0.

ADJOURN

There being no further business the meeting was adjourned at 9:10 p.m.