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## ZBA-20-53

**To:** City of Pueblo Zoning Board of Appeals  
**From:** Alan Lamberg, senior planner  
**Through:** Scott Hobson, Land Use Administrative Official  
**Date:** 1/26/2021  
**Request:** **A variance to reduce a side yard setback requirement for an accessory garage in a Mixed Residential (R-4) Zone District.**  
**Site Location:** **2236 North Grand Avenue, Pueblo CO 81003**  
**Legal Description:** West 120 feet of lots 3+4, Block 15, Barndollar and Lowther Subdivision  
**Year Built:** 1912  
**Applicant:** Marianne & Steven Fox  
**Property Owner:** Marianne & Steven Fox  
**Zone District:** Mixed Residential (R-4) Zone District

### BACKGROUND

The subject property, 50-foot wide and 120-foot deep parcel, originated with the Historic Northside neighborhood, north of the city center when the Barndollar and Lowther Addition to the City was platted in 1872. The house was constructed in 1912. The owners recently remodeled the house by removing vinyl siding to expose and paint the historic brick masonry. The original garage was demolished before 1990. The owners intend to construct a 2-car garage mid-lot at the end of the side-yard driveway.

The applicant is requesting the following variance from the Pueblo Municipal Code, Title XVII – Zoning Code:

1. Reduce side yard setback requirements for residential districts, § 17-4-2 (h), and for accessory structures, § 17-4-23 (a)(3). The 564 square feet garage is planned close to the south side yard for access from the 10-foot wide driveway is adjacent to the south property line. The request is to reduce side-yard requirement to 2-feet in lieu of 5-feet; a variance is applicable according to § 17-4-23 (e) if there is an unnecessary hardship that is not self-imposed.

### ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Mixed Residential (R-4) Zone District	One-family residences with some duplex and multifamily.
East	Mixed Residential (R-4) Zone Districts	One-family residences.
South	Mixed Residential (R-4) Zone District	One-family residences.
West	Mixed Residential (R-4) Zone Districts	One-family residences and one multifamily structure.

**PUBLIC NOTICE**

The property was publicly noticed in accordance with Title XVII, Section 17-5-33(2) of the City of Pueblo Municipal Code. Specifically, the hearing was published in the Pueblo Chieftain, surrounding property owners within 100 feet of the property were notified by mail, and a sign was placed on the site (See Attachment E). These notices occurred at least 10 days prior to the hearing.

**OTHER AGENCIES**

Code Enforcement	No comment
Law Enforcement	No comment
City Engineering	No comment
Fire Protection	No comment
Energy	No comment
Telecommunication	No comment
Parks and Recreation	No comment
Stormwater	No comment
Wastewater	No comment
Waterworks	No comment
Traffic	No comment

**CONDITIONS REQUIRED FOR VARIANCE**

- The variance will not: reduce the required light and air to adjacent properties; constitute a nuisance to the properties within one hundred (100) feet of the property for which the variance is requested; or substantially reduce the monetary value of properties within one hundred (100) feet of the property for which the variance is requested.
  - Comments:**  
Affirmative finding. The subject property's site plan will otherwise comply with required front and rear yard setbacks to adjacent properties. While the garage will be one-and-a-half stories (21-feet) tall, it is positioned on the lot so that the house on the adjacent south lot is more than 14-feet away, maintaining light and air. The subject neighborhood, the Old Historic North Side, , has many instances of structures built near or adjacent to a side yard property line. There will be no nuisance to adjacent property because a two-foot setback will provide for on-site maintenance of the structure. As for impacting other properties, the applicant's letter and elevations demonstrate an intent to be architecturally compatible in terms of design and detail.
- The variance will not affect general planning of the City with respect to land use and the location of streets and highways will not be jeopardized.
  - Comments:**  
Affirmative finding. There is established access from an existing driveway, and the garage site is far from the front yard and street.

3. Strict adherence to the City of Pueblo Zoning Code would not secure appropriate development of the property for which the variance is requested.
  - **Comments:**  
Negative finding. Affirmative finding. While the back half of the lot is clear of structures, the side-yard driveway was established before the Zoning Code's yard requirements. The parcel size and configuration does not provide adequate area and traffic circulation for the construction of a garage that meets setbacks. Furthermore, the property does not have alley access because the eastern 50 feet of the original two corporate lots were parceled for the neighboring residence at 318 West 23<sup>rd</sup> Street.
4. The property for which the variance is requested suffers a unique or singular disadvantage, not common to other property in the district, through the operation of the City of Pueblo Zoning Code.
  - **Comments:**  
Affirmative finding. Generally, land in a historic neighborhood is not appropriate for new, greenfield development. The subject property is further disadvantaged because the proposed garage plan is dependent to an existing house and driveway.

#### **PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION**

Staff conditional approval of a detached garage with a two (2) foot side yard setback from the south property line, subject to the following staff conditions and standard permit conditions.

#### **STAFF CONDITIONS**

1. The subject garage shall otherwise comply the Zoning Code, particularly required architectural compatibility according to Accessory Code, §17-4-23.

#### **ATTACHMENTS**

1. A. Standard Permit Conditions
2. B. Location Map
3. C. Site Map
4. D. Zoning Map
5. E. Comprehensive Plan Map
6. F. Public Notice Photo
7. H. Applications, Letter, Site Plan and Elevations

**Exhibit A. Standard Permit Conditions**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>1/26/2021</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>1/26/2022</b>
2.	<b>Required Revisions</b> Any revisions or additions to plans required as a result of approval must be submitted and stamped “approved” prior to the sign-off of the building permit routing slip or business license.
3.	<b>Changes</b> The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the Department of Planning and Community Development. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Community Development.
4.	<b>Property Inspection</b> By acceptance of this permit, Permit holder authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
5.	<b>Certificate of Occupancy</b> A certificate of occupancy must be issued by Regional Building <u>PRIOR</u> to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Community Development must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permit holder may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
6.	<b>Completion and Maintenance of Improvements and Landscaping</b> Permit holder or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permit holder agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.
7.	<b>Building Permit; Other Permits</b> Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state and federal permits.
8.	<b>Off-Site Drainage</b> Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties.
9.	<b>Appeals</b> of a decision of the Land Use Administrator can occur up to thirty (30) days following such decision. Appeals of Zoning Board of Appeals decisions can occur up to thirty (30) days following final decision. Any work done in connection with this permit prior to the expiration of all applicable appeal periods is done <u>SOLELY</u> at the risk of the Permit holder.
10.	<b>Errors</b> Permit holder is solely responsible for the accuracy of all information contained in the Zoning Permit form and in accompanying documentation. Any errors contained therein may invalidate the Zoning Permit and may result in issuance of a code violation citation and prosecution.
11.	<b>Transfer of Ownership</b> In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become Permit holder and subject to compliance with the terms and conditions of this permit.
12.	<b>Violations/Penalties</b> A violation of any of the conditions of this permit or of any provision of the Pueblo Municipal Code may result in a penalty of up to three hundred dollars (\$300) per day.
13.	<b>Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals.</b> This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant at Zoning Board of Appeals meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions or regulations.

**Exhibit B. Location Map**



**Exhibit C. Site Map**

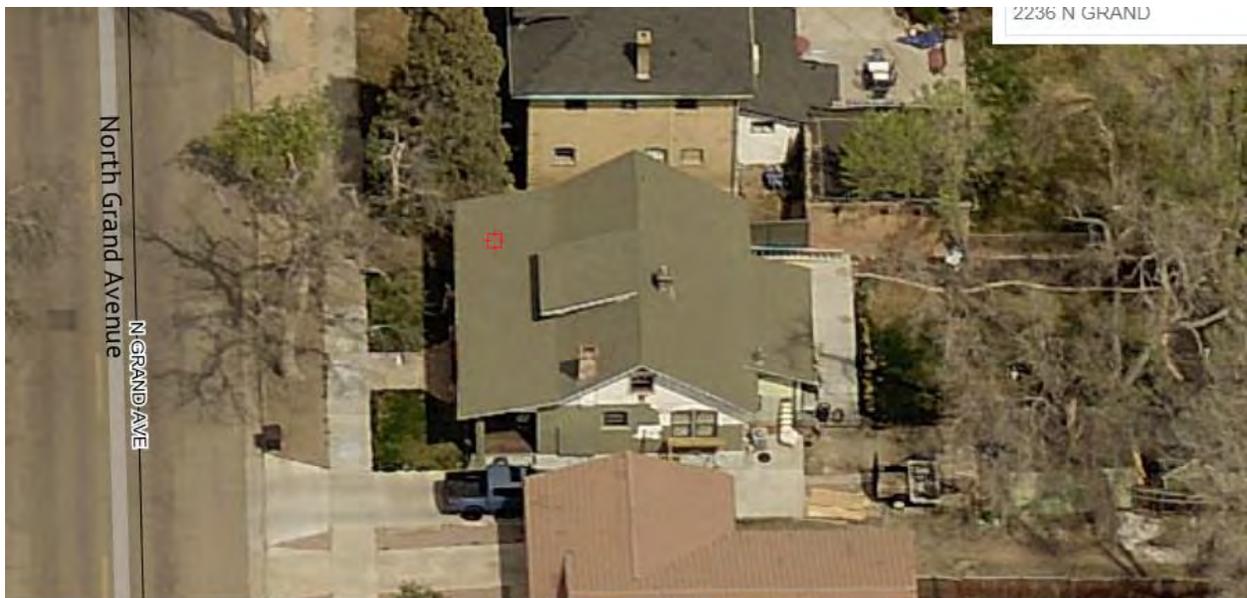
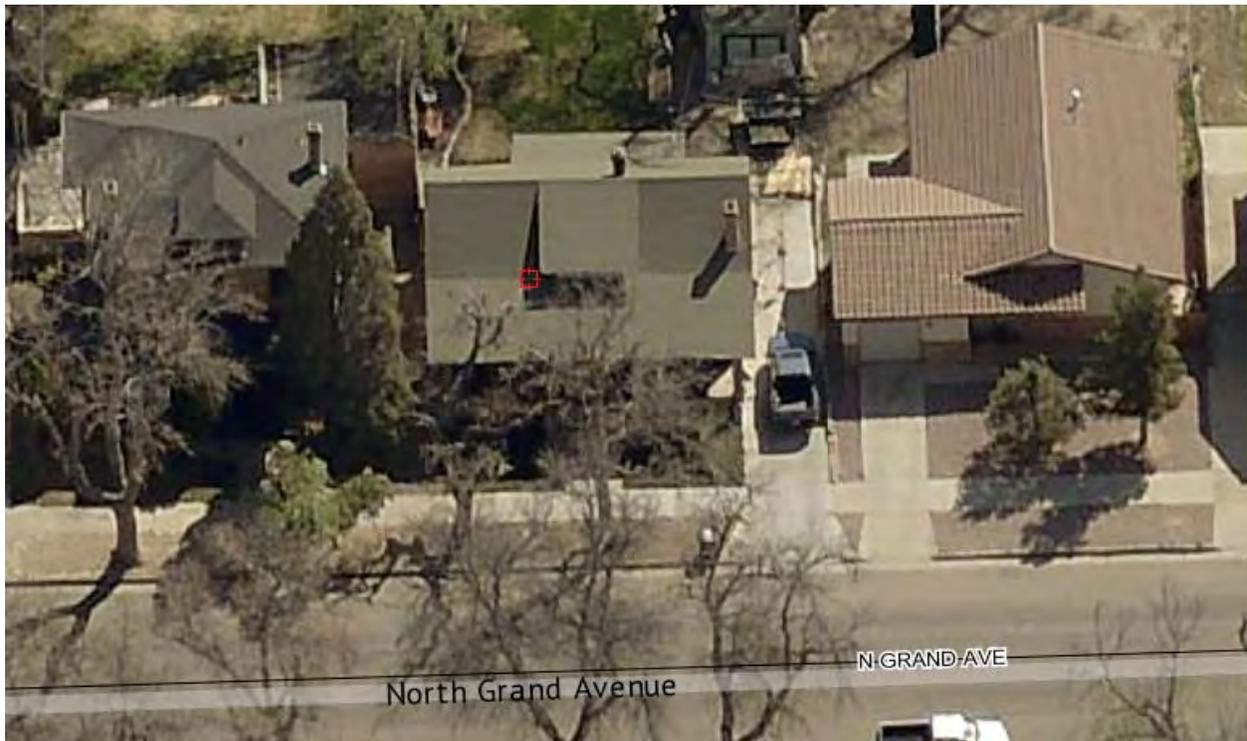


**Exhibit D. Zoning Map**



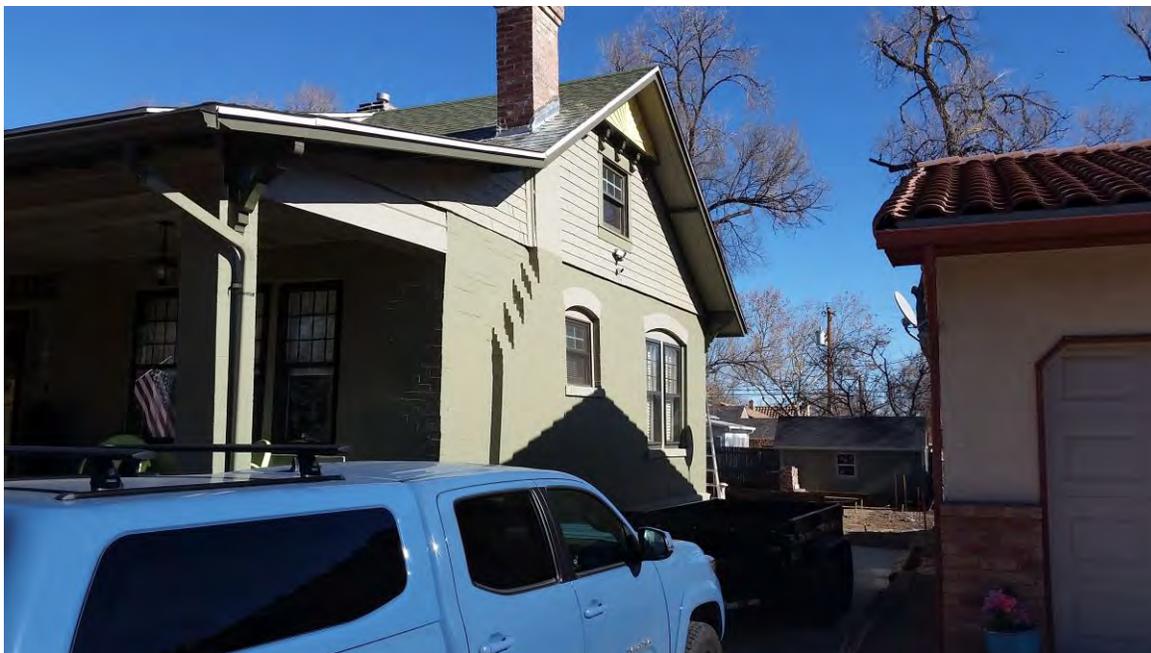
**Exhibit E. Public Notice**







**Front of house from Grand Avenue**



**Driveway and side of house from Grand Avenue**

## Zoning Board of Appeals Application

Please type or print clearly. Illegible applications will not be accepted. Case #:

Property Owner:		Applicant (if different from property owner):	
Contact Info	Name:	JEAN & MARIONNE FOX	
	Address:	2236 N. GRAND AVE	
	City, State & Zip:	PUEBLO, CO 81003	
	Phone:	(719) 240-7145	
	Email:	foxplumbingandheating@outlook.com	
	<i>The applicant will be the primary contact unless otherwise noted.</i>		
Property Info	Project Location: 2236 N. Grand Ave.		
	Legal Description: <del>Lot</del> Lot: W 120 FT, Lots 3x4, BK 15, Sub <sup>Boardwalk</sup> - 4 <sup>Leather</sup>		
	Parcel No: 524432005	Existing Zone: R4	
	Property Size: 60002		
<b>General Information</b>			
Provide a short description of the proposed request: Variance for side setback, different siding materials possibly height.			
What is the general use of the property: <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Multi-Family <input type="checkbox"/> Other _____			
Project Information	Scope of work: <input type="checkbox"/> Special Use Permit (Limited Use Permit):		
	<input type="radio"/> Use by Review <input type="radio"/> Home Daycare <input type="radio"/> Home Occupation (Total # of children: _____) <input type="radio"/> Other: _____		
	<input checked="" type="checkbox"/> Variance:		
	<input checked="" type="checkbox"/> Setback <input type="checkbox"/> Parking <input type="checkbox"/> Landscape <input type="checkbox"/> Lighting <input checked="" type="checkbox"/> Height <input type="checkbox"/> Signs <input checked="" type="checkbox"/> Other: Material		
	<input type="checkbox"/> Appeal:		
	<input type="radio"/> ZBA Decision (Case Number: ZBA-____-____) <input type="radio"/> Administrative Official Determination <input type="radio"/> Other: _____		
<input type="checkbox"/> Other: _____			

<b>Attachments</b>	<b>Attachment Checklist:</b>	
	The following list of attachments are required to accompany all applications: <input checked="" type="checkbox"/> A. Detailed explanation of the request as listed above. Be specific. <i>letter</i> <input checked="" type="checkbox"/> B. Justification of facts required for the request. Be specific <input checked="" type="checkbox"/> C. Site plan, if variance. Must depict requested variance on plan. <input checked="" type="checkbox"/> D. Applicable application (i.e. <del>business license, Home Occupation Questionnaire</del> ). <input checked="" type="checkbox"/> E. Photographs. <input checked="" type="checkbox"/> F. Additional information that you believe justifies the request. <input checked="" type="checkbox"/> G. <del>Copy of determination letter, if appealing Administrative Official Determination.</del> <input checked="" type="checkbox"/> H. <del>Pueblo County Assessor's Property Information print out</del> <a href="http://www.co.pueblo.co.us">www.co.pueblo.co.us</a>	
<b>Terms</b>	By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:	
	1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application. 2. There are no known hazards or vicious animals present on the subject property. 3. All requisite fees have been paid to the City of Pueblo. 4. All information in this application, and all attachments, are true and accurate to the best of my knowledge. 5. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application. 6. It is highly recommended that a licensed surveyor complete a property survey before any construction takes place. The property owner is responsible for any construction that takes place within the boundaries of their property. The city may require any construction built outside of the property legal boundaries or within any setbacks (by intent or error), to be removed at the owners' expense.	
<b>Signatures</b>	Property Owner	
	Print Name:	
	Signature:	Date:
	Applicant, if different from Property Owner	
Print Name:	<i>Arienne Steelman</i>	
Signature:	<i>Arienne Steelman</i>	Date: <i>12/18/20</i>

<b>Office Use Only</b>	<b>Zoning Compliance (Completed by City Staff)</b>	
	Application received by:	Date:
	Application checked for completeness by:	Date:
	Case Manager:	Fee Paid:
	Hearing date:	<input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Approved w/conditions
	Case #:	

To: Planning and Community Development  
211 East D Street  
Pueblo, CO 81003

From: Steve and Marianne Fox  
2236 Grand Ave.  
Pueblo, CO 81003

Date: 12/21/20

To whom it may concern,

We are applying for a variance to build a garage behind our house. We are asking for a 2' easement instead of normal 5' on the right hand side of the property. Our driveway runs down the property line so we feel that aesthetically it will look better from the street if the driveway goes straight back to the garage. And since we have no alley access, we really don't have any extra room to work with. We feel that the vertical lap siding will complement the brick exterior of our house. The added garage will be painted the same color as our house and will have a lot of the same details. (sunburst in the peaks, the same windows – photos attached) We will also use carriage doors so the garage looks like it belongs with our old house and in our neighborhood.

Thank you,



Steve Fox



Marianne Fox

# Accessory Structure Application (Garages, carports, patio, etc)

Please type or **print** clearly. Illegible applications will not be accepted.

**\$25**

Application #

PRBD Routing #

<b>Contact Info</b>	<b>Property Owner:</b>		<b>Applicant (if different from property owner):</b>		
	Name: Steven & Marianne Fox		Name:		
	Address: 2236 N. Grand Ave		Company:		
	City, State & Zip: Pueblo, CO 81003		Address:		
	Phone: (719) 240-7145		City, State & Zip:		
	Email: foxplumbingandheating@outlook.com		Phone: ( )	Cell: ( )	Email:
<i>The applicant will be the primary contact unless otherwise noted.</i>					
<b>Property Info</b>	<b>Property Information:</b>				
	Property Address: 2236 N. Grand Ave.				
	Parcel No: 524432005				
	Legal Description: Lot(s): W120 FT Lots 3+4 Block: 15 Subdivision: Brendollar + Lowther				
Property Size: 0.138 acres		Zone: R4			
<b>Project Information</b>	<b>General Information</b>			<b>Approval</b> <b>Y</b> N	
	Is the structure: <input type="checkbox"/> Attached <input checked="" type="checkbox"/> Detached to the primary home?				
	Type of structure: <input checked="" type="checkbox"/> Garage <input type="checkbox"/> Carport <input type="checkbox"/> Patio cover <input type="checkbox"/> Deck <input type="checkbox"/> Storage Shed <input type="checkbox"/> Prefabricated Metal Carport <input type="checkbox"/> Other				
	Height of the home? 21 Ft		Height of the proposed accessory structure? 21 Ft		
	# of parking spaces provided? 2		Location of parking spaces? <input checked="" type="checkbox"/> Garage <input type="checkbox"/> Driveway <input type="checkbox"/> Carport <input type="checkbox"/> Other		
	House size? 2016 Sq ft		Attached garage size? <input checked="" type="checkbox"/> Sq ft		
	Proposed accessory structure size? 584 Sq ft		Are there any other detached structures over 200 Sq ft? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>Shed</i>		
<b>Detached Accessory Structure Permitted Size</b>			<b>Approval</b> <b>Y</b> N		
Lot area: 6002 sq ft x 15% = 900					
Max size: (15% of lot)		or 1500 sq ft (whichever is smaller)			
<b>Attached Accessory Structure Permitted Size</b>			<b>Approval</b> Y N		
<input type="checkbox"/> Cannot exceed the area of the house and cannot be taller than the house.					
<b>Architectural Compatibility</b>			<b>Approval</b> Y N		
<b>Existing Home</b>		<b>Proposed Accessory Structure</b>			
Siding Material? Brick		Siding Material? Vert. Lap Siding			
Siding Color? Green		Siding Color? Green			
Roof Pitch? 5/12		Roof Pitch? 7/12			
Roof Material? Asphalt Shingles		Roof Material? Asphalt Shingles			

(Continue Next Page)

(Continued from Page 1)

	<b>Lot Coverage</b>	<b>Approval</b> <span style="border: 1px solid red; border-radius: 50%; padding: 2px;">Y</span> N
Project Info (Cont.)	<u>Allowable area for lot coverage</u>	<u>Proposed area for lot coverage</u>
	<small>Note: The total proposed lot coverage area must be less than the allowable area for lot coverage</small>	Primary Residence: <u>51216</u> Sq Ft
	Lot Area: <u>6002</u> Sq Ft	Existing garage: <u>8</u> Sq Ft
	Max. Coverage allowed per zone: x <u>50</u> %	Patio Cover: <u>800</u> Sq Ft
	TOTAL allowable area lot coverage: <u>3000</u>	Shed(s): <u>216</u> Sq Ft
	← This must be equal to or more than this →	Proposed Structure: <u>564</u>
	<b>TOTAL:</b> <u>2796</u>	Sq Ft

	<b>Construction Materials</b>	<b>Approval</b> <span style="border: 1px solid red; border-radius: 50%; padding: 2px;">Y</span> N
Project Info (Cont.)	Is this a Prefabricated Metal Structure? <small>(If yes, complete Prefabricated Metal Carport Section below)</small>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Does it have Metal Siding?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is this a Pole Barn Structure?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	<b>Prefabricated Metal Carports only</b>	
	Is there an existing garage, carport or other parking structure?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there any existing prefabricated metal structures?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the property a lot subdivided prior to February 1, 1972?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:

1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application.
2. There are no known hazards or vicious animals present on the subject property.
3. All requisite fees have been paid to the City of Pueblo.
4. All information contained in this application, and all attachments, are true and accurate to the best of my knowledge.
5. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application.
6. It is highly recommended that a licensed surveyor complete a property survey before any construction. The owner is responsible for any construction that takes place. The city may require any construction built outside of the property legal boundaries or within any setbacks (by intent or error), to be removed at the owners' expense.

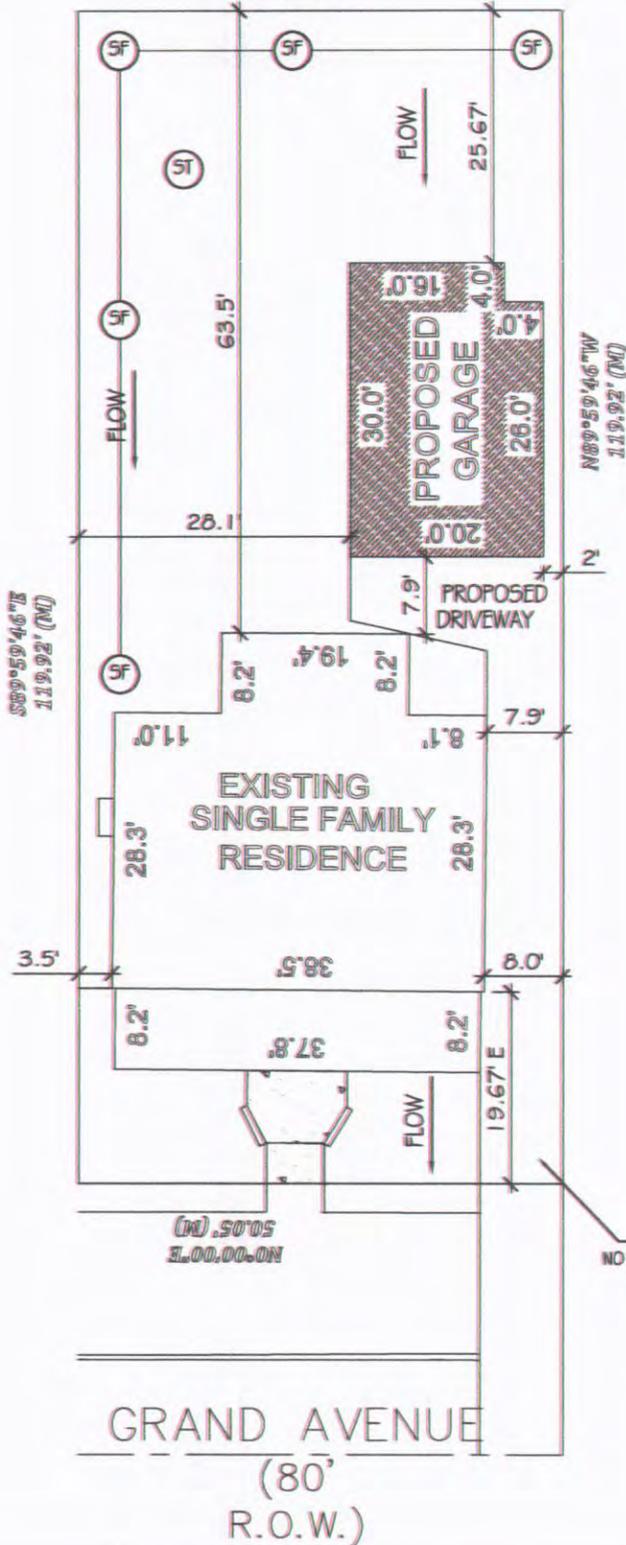
	<b>Property Owner</b>	
Signatures	Print Name:	
	Signature:	Date:
	<b>Applicant, if different from Property Owner</b>	
	Print Name: <u>Adrienne Steelman</u>	Date: <u>12/18/20</u>
Signature: <u>Adrienne Steelman</u>		

	<b>Zoning Compliance (Completed by City Staff)</b>					
Office Use Only	Corner lot?	<b>Yes</b>	<b>No</b>	Through lot?	<b>Yes</b>	<b>No</b>
	Setbacks:	Minimum		Proposed		
	Front:	<u>25 ft.</u>		<u>OVER 40'</u>		
	Second Front:	<u>11</u>		<u>2' / 28'</u>		
	Side:	<u>5'</u>		<u>25'</u>		
	Rear:	<u>5'</u>		<u>25'</u>		
	Application received by:	<u>Bart M.</u>		Date:	<u>12-30-2020</u>	
Approved or Denied?			Fee Paid:			

ALLEYWAY

(N) .50'S  
E.00.00-05

2236 N. GRAND AVE  
6,002 SF  
0.138 AC



NO CROSS LOT DRAINAGE PERMITTED. STORMWATER SHALL BE DIRECTED TO THE NEAREST PUBLIC RIGHT OF WAY (STREETS AND ALLEYS), DEDICATED DRAINAGE EASEMENTS, AND/OR CITY OF PUEBLO STORMWATER CONVEYANCE SYSTEM.

- (5F) SILT FENCE
- STREET, CURB AND GUTTER WILL BE CLEANED AND MAINTAINED DAILY, WITH SEDIMENT TRAP AT FRONT OF PROPERTY CURSHEAD.
- CBC (CUT BACK CURB)-SEDIMENT CONTROL AT BACK OF CURB.
- CONCRETE AREA WASHOUT AT CONCRETE COMPANY

FOR TEMPORARY STOCKPILES ON THE INTERIOR PORTION OF A CONSTRUCTION SITE WHERE OTHER DOWN GRADIENT CONTROLS, INCLUDING PERIMETER CONTROL, ARE IN PLACE, STOCKPILE PERIMETER CONTROLS MAY BE REQUIRED.

DOWNSTREAM PROTECTION, AND OFF SITE PERIMETER CONTROL ARE PROVIDED BY DEVELOPER.

CONCRETE SUPPLIERS AND INSTALLER WILL BE REMOVING ALL CONCRETE DEBRIS AND EXTRANEASUS MATERIAL DURING CONSTRUCTION, SO NO CONCRETE WASHOUT IS BEING PROVIDED.

PLOT PLAN

SCALE: 1" = 20'-0"

BUILDER/OWNER:	THE FOX 'S RESIDENCE
DATE:	12-2020
ADDRESS:	2236 N GRAND AVE. (PUEBLO) COLORADO PARCEL SCHEDULE #524432005
LEGAL DESCRIPTION:	THE WEST 120 FT. OF LOTS 3 AND 4 BARNDOLLAR AND LOWTHERS ADDITION

ATT. DAVE WEHRICH  
702 POLK STREET  
PUEBLO, COLORADO 81004  
(719) 299-4784 fax  
(719) 240-9468 cell  
(719) 744-0544 office  
EMAIL-dave@advanceddb.com  
EMAIL-dave.wehrich@yahoo.com



