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## ZBA-21-16

**To:** City of Pueblo Zoning Board of Appeals  
**From:** Bart Mikitowicz, Planner  
**Through:** Scott Hobson, Land Use Administrative Official  
**Date:** 6/22/2021  
**Request:** **Variance to allow for a seven foot (7') rear yard setback in a Mixed Residential (R-4) Zone District**  
**Site Location:** **138 Douglas Lane, Pueblo, CO 81001**  
**Legal Description:** LOT 22 BLK 401 BELMONT HILLS SUB  
**Year Built:** 1979  
**Applicant:** Cynthia Perez  
**Property Owner:** Cynthia Perez  
**Zone District:** Mixed Residential (R-4) Zone District

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### BACKGROUND

138 Douglas Lane is a 1,508-sf. single-family residence built in 1979. The residence is sited in the Belmont Hills Subdivision, A Special Area Plan, which is located southwest of Colorado State University-Pueblo. The applicant is requesting a Variance to allow for a seven-foot (7') rear yard setback instead of the prevailing average rear-yard setback of 8.5-foot rear-yard setback to build a 200-square foot attached patio cover in a Mixed Residential (R-4) Zone District. In accordance with 17-4-23(1)(3) of the Pueblo Municipal Code (PMC), The applicant is required to obtain a Variance to complete this project.

Lot 22 is an irregular pie shape with a less than standard depth of 89.6 feet along the west property line and 95.96 feet along the eastern property line. Single-family home lots generally have a depth of 100 to 120 feet to accommodate a 15-foot rear yard setback for the principal structure and associated rear yard amenities. Additionally, the lot tappers from the front, adjacent to Douglas Lane to the rear further reducing the developable area of the lot. A Special Area Plan allows for the unique development of land and allows for exceptions to minimum setbacks, lot width, and lot depth. Alternate setbacks are generally identified on the Special Area Plan Plat, deviations from the setback would normally require an amendment to the Special Area Plan. However, Belmont Hills Subdivision, A Special Area Plan, does not specifically call out reduced setbacks, rather a prevailing development pattern has set the standard rear-yard setback at 8.5 feet. Because the reduced setbacks are not included on the plat a variance is required to reduce the rear-yard setback.

**ZONING DISTRICT AND LAND USE**

Zone:		Developed with:
North	Mixed Residential (R-4) Zone District	Two-family Residential
East	Mixed Residential (R-4) Zone District	Two-family Residential
South	Mixed Residential (R-4) Zone District	Undeveloped Lot
West	Mixed Residential (R-4) Zone District	Two-family Residential

**PUBLIC NOTICE**

The property was publicly noticed in accordance with Title 17 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**

Pueblo City/County Health	No comment
City Transportation	No comment
Pueblo Regional Building Department	No comment
Fire Department	No comment
City Public Works Department	No comment
City Stormwater Department	No comment
City Code Enforcement	No comment
Pueblo Board of Water Works	No comment
City Wastewater Department	No comment
City Parks and Recreation Department	No comment

**CONDITIONS REQUIRED FOR VARIANCE**

1. 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 accessory structure will not reduce light and air to adjacent properties. The proposed patio cover will abut an existing fence, behind which is an undeveloped lot.**

2. 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. This variance will not negatively affect land use planning or the location of streets and highways.**

3. Strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.

**Comments: Affirmative Finding. Strict adherence to the code would only allow for a three (3') addition for the patio cover. A three (3') foot patio would be an insignificant gain in useable square footage and would not justify the cost of the improvement resulting in a loss of potential property value.**

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 this Title.

**Comments: Affirmative Finding. Due to the reduced lot depth and the taper of the lot from front to rear, the side and rear setback create a developmental disadvantage for outdoor amenities.**

**PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION**

If the Board chooses to approve this variance request staff only recommends Standard Permit Conditions 1 through 13.

**ATTACHMENTS**

- A. Standard Permit Conditions
- B. Location Map
- C. Site Map
- D. Zoning Map
- E. Comprehensive Plan Map
- F. Public Notice Photo
- G. Site Photographs
- H. Application
- I. Supporting documentation

**Exhibit A. Standard Permit Conditions**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>6/22/2021</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>ZBA-21-16</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.

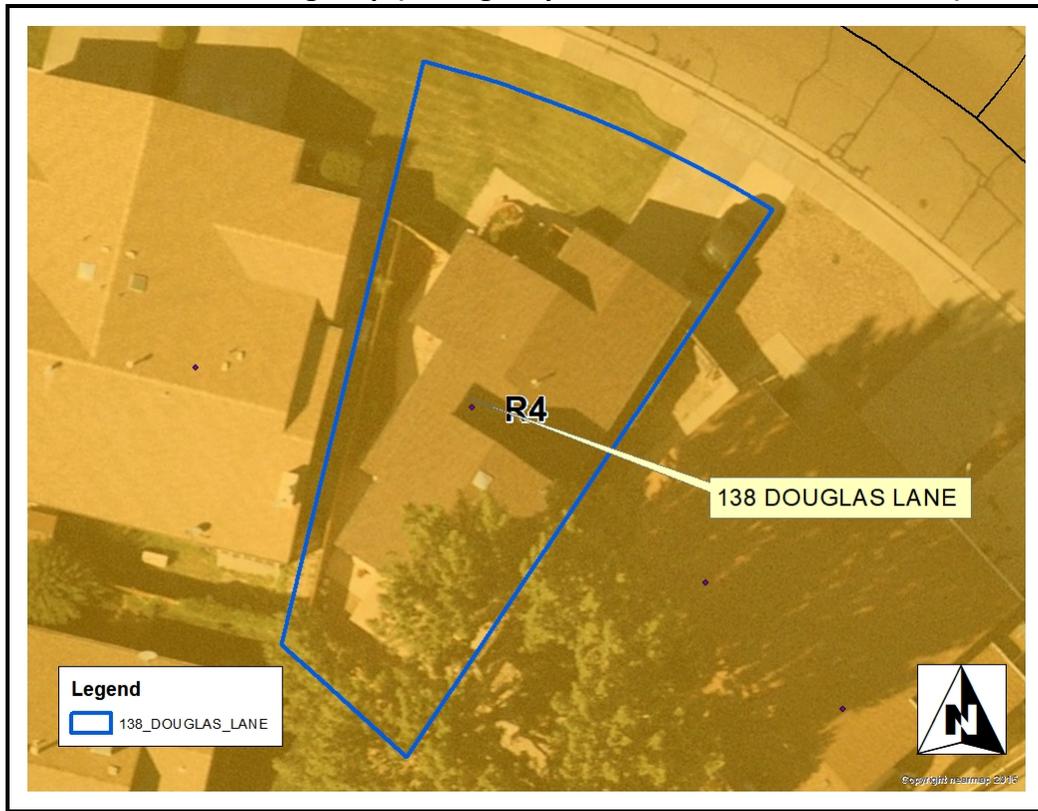
**Exhibit B. Location Map**



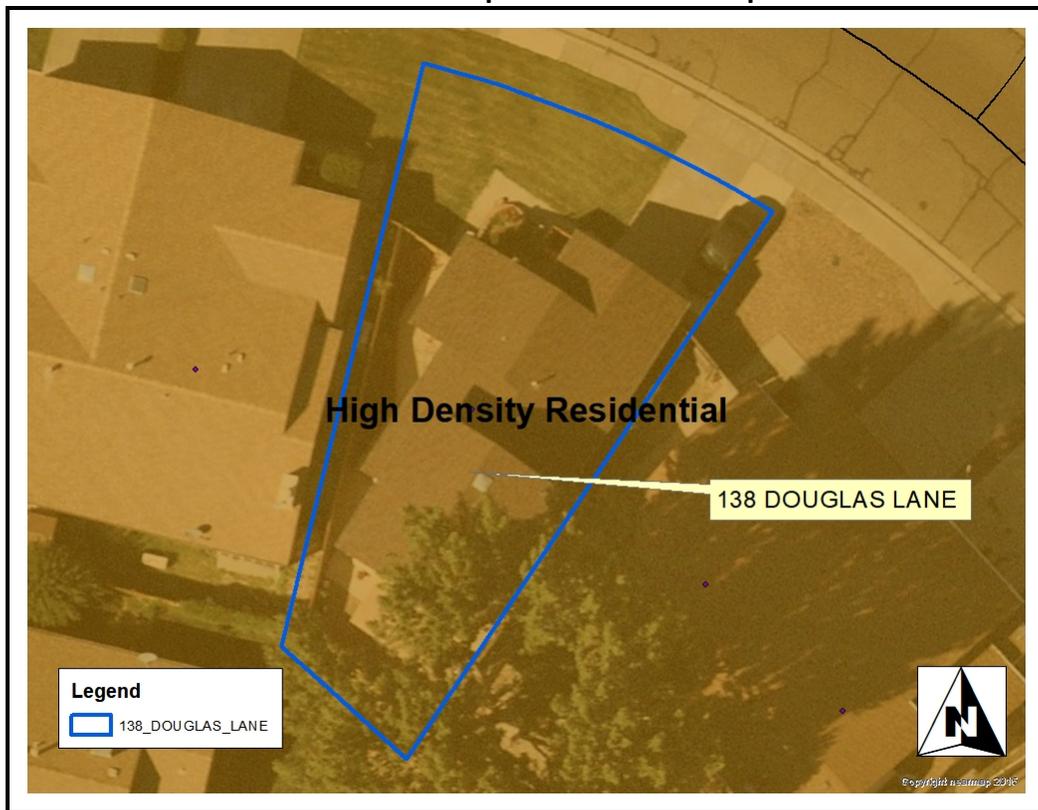
**Exhibit C. Site Map**



**Exhibit D. Zoning Map (Zoning Map Amendments Recommended)**



**Exhibit E. Comprehensive Plan Map**



**Exhibit F. Public Notice**



**G. Site Pictures**



Taken from Pineridge facing north.

**Exhibit**  
**Exhibit H. Application**



Planning & Community Development

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

**Zoning Board of Appeals Application**

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

<b>Contact Info</b>	<b>Property Owner:</b>		<b>Applicant (if different from property owner):</b>	
	Name: <u>Cynthia Perez</u>		Name:	
	Address: <u>138 Douglas Ln.</u>		Company:	
	City, State & Zip: <u>Pueblo 81001</u>		Address:	
	Phone: <u>(719) 252-7232</u>		City, State & Zip:	
	Email:		Phone: ( )	Cell: ( )
Email: <u>Cindyaperez1@gmail.com</u>		Email:		
<i>The applicant will be the primary contact unless otherwise noted.</i>				
<b>Property Info</b>	<b>Project Location:</b> <u>138 Douglas Ln - back of house</u>			
	Legal Description:			
	Parcel No: <u>418401009</u>		Existing Zone: <u>R4</u>	
	Property Size:			
<b>Project Information</b>	<b>General Information</b>			
	Provide a short description of the proposed request: (separate narrative as Attachment A also required)			
	<u>I would like to have a 200 sq ft patio cover built - it will replace the previous patio structure which was there when I purchased the property</u>			
	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			
	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 type="checkbox"/> Variance: <input type="radio"/> Setback <input type="radio"/> Parking <input type="radio"/> Landscape <input type="radio"/> Lighting <input type="radio"/> Height <input type="radio"/> Signs <input type="radio"/> Other: _____ <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: _____			

(Continue Next Page)

10/2019

(Continued from Page 1)

<b>Attachments</b>	<b>Attachment Checklist:</b>	
	<p>The following list of attachments are required to accompany all applications:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> A. Detailed explanation of the request as listed above. Be specific.</li> <li><input type="checkbox"/> B. Justification of facts required for the request. Be specific</li> <li><input checked="" type="checkbox"/> C. Site plan, if variance. Must depict requested variance on plan.</li> <li><input type="checkbox"/> D. Applicable application (i.e. business license, Home Occupation Questionnaire).</li> <li><input type="checkbox"/> E. Photographs.</li> <li><input type="checkbox"/> F. Additional information that you believe justifies the request.</li> <li><input type="checkbox"/> G. Copy of determination letter, if appealing Administrative Official Determination.</li> <li><input type="checkbox"/> H. Pueblo County Assessor's Property Information print out (<a href="http://www.co.pueblo.co.us">www.co.pueblo.co.us</a>)</li> </ul>	
<b>Terms</b>	By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:	
	<ol style="list-style-type: none"> <li>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.</li> <li>2. There are no known hazards or vicious animals present on the subject property.</li> <li>3. All requisite fees have been paid to the City of Pueblo.</li> <li>4. All information in this application, and all attachments, are true and accurate to the best of my knowledge.</li> <li>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.</li> <li>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.</li> </ol>	
<b>Signatures</b>	Property Owner	
	Print Name:	Cynthia Perez
	Signature:	<i>Cynthia Perez</i> Date: 6/1/21
	Applicant, if different from Property Owner	
<b>Signatures</b>	Print Name:	
	Signature:	Date:

<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
Case #:	<input type="checkbox"/> Denied	
	<input type="checkbox"/> Approved w/conditions	



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When I moved into my house about 5 years ago it had a covered patio in the back yard. The patio cover was very old and starting to get small holes in it and was just becoming an eyesore. In February after more damage to the cover of the patio I decided I would like to tear out the existing patio and rebuild a new patio adding additional square footage. Due to the odd shape of my yard and setbacks the patio was going to be a very different layout.

My back yard backs up directly to the backyard of Tim & Shirley Whittmore. I have spoken with Tim and he said he has no problem with the current plan and size of patio I wish and would like to get the permission to build. My patio will be up against his vacant lot. The lot is his side yard and he said will have no impact to them. The two neighbors to the side with me should have no problem because I meet the setbacks with more room than needed on each side.

The contractor started building the patio without a permit and when I went to City of Pueblo Planning Department, I was provided with information that the patio didn't meet the requirements, so I needed more than just a permit. I was told by my neighbor and by the City that I would need to complete an application for variance and pay the application fee.

Since the contractor asked for money up front for the project, I'm hoping by submitting the proper paperwork and documentation I can have him complete the job. This job has been on hold since March and I have materials out back that are getting rained on. I have truly learned so much about the steps needed to be taken before starting home projects such as mine. I really am doing my best to improve not just my property but improve the look of our neighborhood. Thank you for your time and consideration.

Cindy A. Perez

Covered Patio – 200 sq ft, 9.5 ft. tall



1 0 0.00 1.00 0.09 3808.60 Residential \$10,000

TRANSFER HISTORY

NAMES ARE NOT NECESSARILY LISTED AS TITLE IS HELD, SOME MAY BE SHORTENED OR ABBREVIATED.  
PLEASE CONTACT THE ASSESSOR'S OFFICE AT (719)583-6603 FOR CORRECT OWNERSHIP.

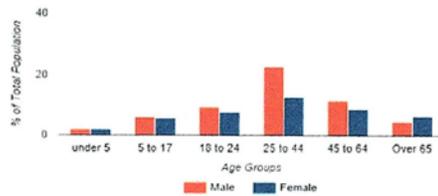
04/15/2016	\$129,000	2034386	WARRANTY DEED(WD)	PEREZ CYNTHIA A	MCCLURE KARA A	-
10/11/2007	\$116,000	1745339	WARRANTY DEED(WD)	MCCLURE KARA A	REYES RICARDO + BETTY TERESA	-
08/12/1996	\$82,500	1135486	PERSONAL REPRESENTATIVE DEED (PRD)	REYES RICARDO + BETTY TERESA	MUENCH JOAN R	-
05/23/1985	\$70,000	773873	WARRANTY DEED(WD)	MUENCH JOAN R	CHESSMAR THERESA E	-
10/24/1979	\$62,900	622218	WARRANTY DEED(WD)	CHESSMAR THERESA E	WHITTMORE CORP	-

CENSUS/DEMOGRAPHICS

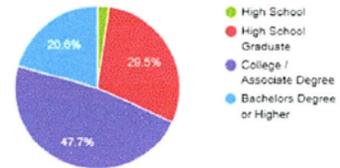
Total Population:

1,488

**MALE** **FEMALE**  
**838** **650**

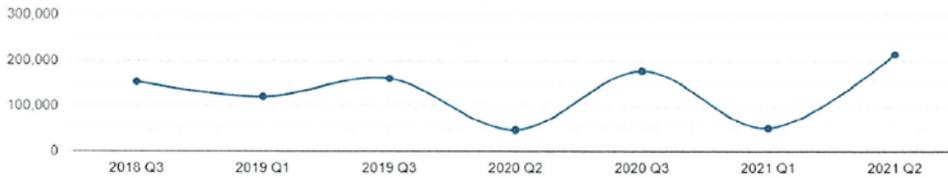


EDUCATIONAL ATTAINMENT



RECENT AREA SALES

MEDIAN RESIDENTIAL HOUSE PRICE



RESIDENTIAL ACTUAL VALUES

**Low**  
**\$10,000**  
**Median**  
**\$150,262**  
**High**  
**\$190,732**

RESIDENTIAL SALES BY TYPE



SALES BY RESIDENTIAL AREA

**Biggest Sale**  
**\$215,000**  
**Average Home Price**  
**\$115,265**  
**Lowest Sale**  
**\$46,060**

NEARBY SALES

Residential Variance – APPLICATION ASSISTANCE

If you require a variance from the zoning code, you must complete an application for a Variance to be approved by the Zoning Board of Appeals. A Variance application costs \$250 for residences, plus fees of about \$50 for public notices (billed later), per the fee schedule:

<http://pueblo.us/DocumentCenter/View/5028>

Appeals to the Zoning Board aren't guaranteed approval; it depends on the reasoning of the applicant who must demonstrate how the variance will not adversely affect the public interest.

Please make sure to include the required attachments (see the top of page 2 of the ZBA application) because they are necessary for justifying the case. Please label the top of each attachment, ex: A. Letter of Request; B. Justification of Facts; and so on...

If you are applying for an addition or accessory structure, etc., please include that application with the variance application (ask the planning staff for the appropriate application). If the Zoning Board of Appeals approves the application for a variance, then the fee for the addition or accessory structure application, is paid thereafter.

ATTACHMENT #B - Justification of Facts.

Site Plan

Before the Zoning Board of Appeals may grant a variance, it must make written findings, based upon appropriate evidence and testimony, that all of the following conditions exist. PLEASE ADDRESS EACH ITEM.

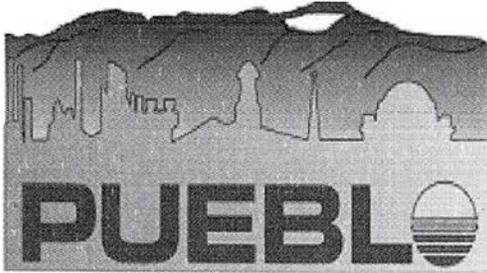
- a. (Neighborhood compatibility) The granting of a variance will not: reduce the required light and air to adjacent properties; constitute a nuisance to the properties within one hundred (100) feet of the property for which the variance is requested; or substantially reduce the monetary value of properties within one hundred (100) feet of the property for which the variance is requested.
- b. (Avoiding bad legal precedents) The general planning of the City with respect to land use, density of use and the location of streets and highways will not be jeopardized.
- c. (Hardship imposed by the City Zoning code) Strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.
- d. (Hardship unique to this location) 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 this Title.

Our staff report will make a recommendation based on the facts available. For example, if the facts are unknown related to one of the listed rules, then staff may point that out and request that the applicant demonstrate how this rule may be met.

Our office accepts Zoning Board of Appeals applications in person, M-F, 8-5, or electronically by e-mailing [planningsubmittals@pueblo.us](mailto:planningsubmittals@pueblo.us) along with payment by cash (in-person only), check (in-person or by mail) or credit card (in-person or by phone).

Application deadlines, meeting dates and times, agendas and minutes of the Zoning Board of Appeals are available online at <http://pueblo.us/zba>

06-20



Regional Building Department  
830 N Main St Suite 100  
Pueblo CO 81003  
719-543-0002 Fax 719-543-0062  
[www.prbd.com](http://www.prbd.com)

Routing # 21-01651

5/28/2021

**Required Agency Approvals - Project Routing**

Owner : PEREZ Contact: CINDY  
Job Address: 138 DOUGLAS LN Project : 436 Res. Patio Adn.  
Pueblo CO 81001  
Parcel : 418401009  
Legal: LOT 22 BLK 401 BELMONT HILLS SUB Notes: PATIO REBUILD ADD SQ FOOTAGE

It is the responsibility of the applicant for this permit to secure the required approvals from the indicated agencies. This must be accomplished prior to the issuance of any permits. This property must not be used or occupied prior to obtaining a final inspection.  
*Please Note: This routing sheet was issued online. If, upon review by the department, we find any discrepancy regarding the details of the scope of the work being done, this form may become void.*

Agency	Date	For Permit Signed	Comments
City Planning			Awaiting Approval Address: 211 E. D STREET Phone: 719-553-2259 Monday - Friday 8 AM -12 PM 1 PM - 5 PM For City of Pueblo Planning application and submittal requirements please visit <a href="https://www.pueblo.us/101/Planning-Community-Development-Zoning">https://www.pueblo.us/101/Planning-Community-Development-Zoning</a> , or contact <a href="mailto:planningsubmittals@pueblo.us">planningsubmittals@pueblo.us</a>
City Stormwater			Awaiting Approval Address: 211 E. D ST. Phone: 719-553-2259 Monday - Friday 8 AM - 5 PM, 48hr Lead time Please Contact the agency for additional information on applications, required documents, and applicable fees.



Planning & Community Development

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

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

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

\$25

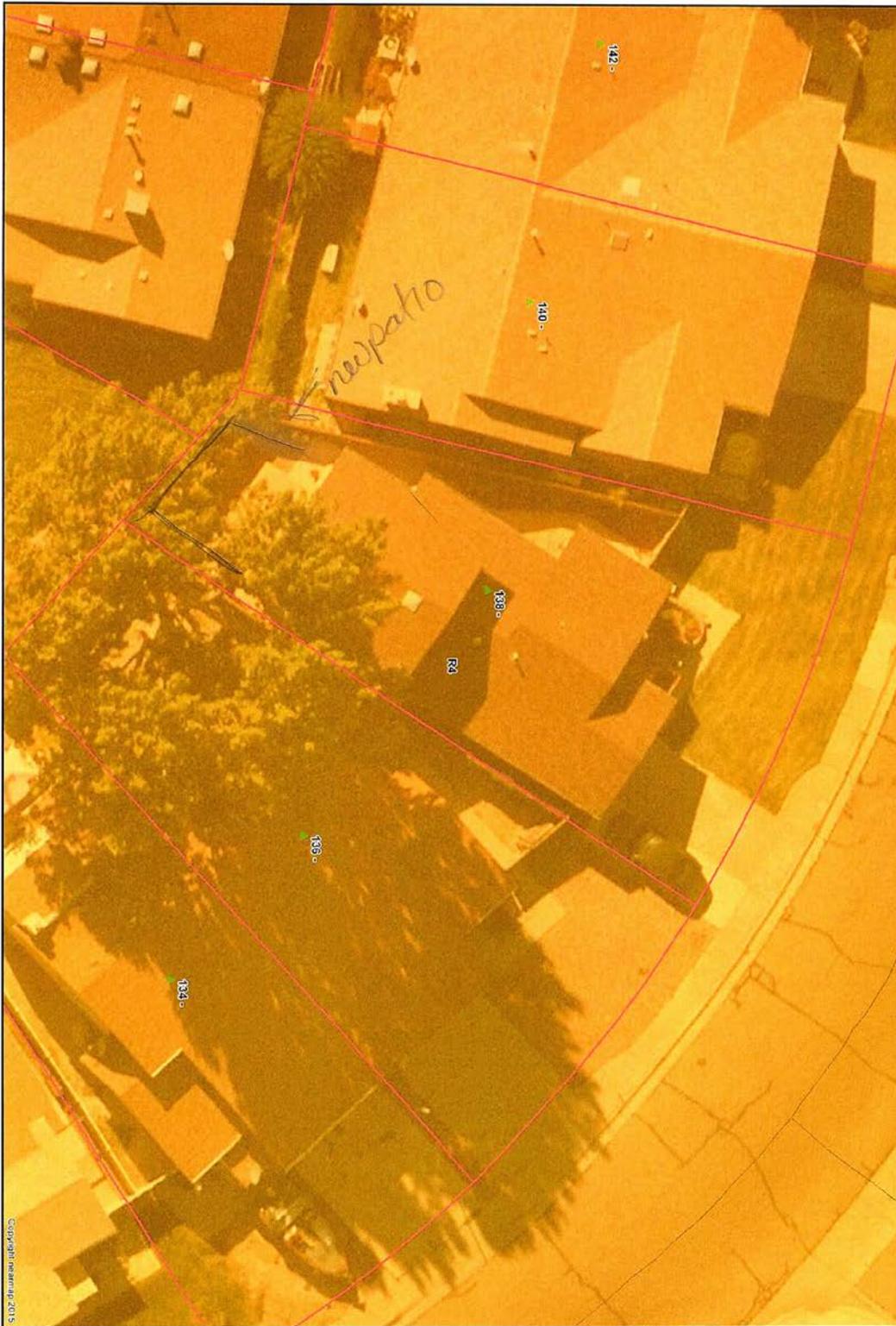
Application #

PRBD Routing #

<b>Contact Info</b>	<b>Property Owner:</b>		<b>Applicant (if different from property owner):</b>	
	Name: <u>Cindy Perez</u>		Name:	
	Address: <u>138 Douglas Ln.</u>		Company:	
	City, State & Zip: <u>Pueblo CO</u>		Address:	
	Phone: <u>719) 252-7232</u>		City, State & Zip:	
	Email: <u>Cindyaperez2@gmail.com</u>		Phone: ( )	Cell: ( )
<i>The applicant will be the primary contact unless otherwise noted.</i>				
<b>Property Info</b>	<b>Property Information:</b>			
	Property Address: <u>138 Douglas Ln.</u>			
	Parcel No: <u>418401009</u>			
	Legal Description:			
	Lot(s): <u>22</u> Block: <u>401</u> Subdivision: <u>Belmont Hills</u>			
Property Size:		Zone:		
<b>Project Information</b>	<b>General Information</b>			<b>Approval Y N</b>
	Is the structure: <input checked="" type="checkbox"/> Attached <input type="checkbox"/> Detached to the primary home?			
	Type of structure: <input type="checkbox"/> Garage <input type="checkbox"/> Carport <input checked="" 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?	Ft	Height of the proposed accessory structure?	<del>9</del> Ft <b>9.5</b>
	# of parking spaces provided?	Location of parking spaces? <input type="checkbox"/> Garage <input type="checkbox"/> Driveway <input type="checkbox"/> Carport <input type="checkbox"/> Other		
	House size?	Sq ft	Attached garage size?	Sq ft
	Proposed accessory structure size?		Sq ft <b>200</b>	
	Are there any other detached structures over 200 Sq ft? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
	<b>Detached Accessory Structure Permitted Size</b>			<b>Approval Y N</b>
	Lot area: <b>x</b> 15% =			
Max size: <b>or</b>		<b>or</b> 1500 sq ft (whichever is smaller)		
(15% of lot)		(house size)		
<b>Attached Accessory Structure Permitted Size</b>			<b>Approval Y N</b>	
<input type="checkbox"/> Cannot exceed the area of the house and cannot be taller than the house.				
<b>Architectural Compatibility</b>			<b>Approval Y N</b>	
<u>Existing Home</u>		<u>Proposed Accessory Structure</u>		
Siding Material?		Siding Material?		
Siding Color?		Siding Color?		
Roof Pitch?		Roof Pitch?		
Roof Material?		Roof Material?		

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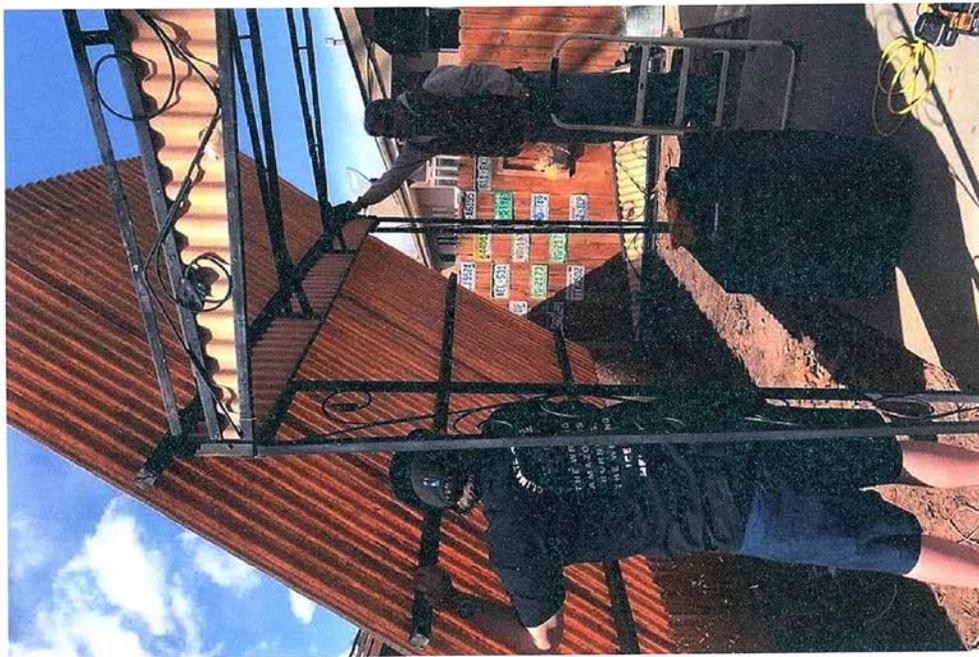
08/2020





Previous patio

patio  
paving





*patio  
enclosure*



*Foundation  
for new patio  
& columns*



*new  
patio frame*



*new patio  
frame*



neighbor's  
back yard -  
new patio backs  
up to open lot