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Chair

Steve Anselmo
Vice Chair



Lisa Bailey
Secretary

Yvonne Lujan-Slak

Georgia Way

ZBA-21-32

Hearing Date: November 23, 2021

TO: City of Pueblo Zoning Board of Appeals
FROM: Bart Mikitowicz, Planner
THROUGH: Scott Hobson, Land Use Administrative Official
LOCATION: 2616 Poplar St., Pueblo, CO 81004
APPLICANT: Francis Salazar
PROPERTY OWNER: Francis Salazar
YEAR BUILT: 2021 (Detached Accessory Structure)
LEGAL DESCRIPTION: LOTS 7-8-9-10 BLK 30 EAST LAKE
ZONE DISTRICT: Single-Family Residential (R-2) Zone District
PARCEL ID: 1513253003
LOT SIZE: 12,300 sqft
REQUEST: A variance to allow a zero-foot (0') rear-yard setback for a detached accessory structure in a Single-Family Residential (R-2) Zone District

SYNOPSIS OF REQUEST

The applicant is requesting a variance to allow a zero-foot rear-yard setback for a recently constructed 1,250 square-foot detached navy-blue metal garage with a navy-blue roof. The subject property is made up of four lots totaling 12,300 square feet developed with a 2,760 square foot single family residence with an attached two car garage, built in 1955, located in the East Lake Subdivision, east of Lake Minnequa. Section 17-4-23 (c)(4) of the Pueblo Municipal Code (PMC), requires "Any detached accessory structure more than one (1) story or higher than sixteen (16) feet shall comply with the minimum setback requirements of the zone district." Therefore, the minimum setback requirements for a detached accessory structure are five feet from the rear and side property lines. The prefabricated metal accessory structure was constructed adjacent to the rear property line and five feet from the southern property line.

ANALYSIS OF REQUEST

Construction of the detached prefabricated metal accessory structure began prior to June 2021. A building permit was not issued for the structure and Pueblo Regional Building Department (PRBD) issued a "Stop Work Order" on June 18th 2021. A second notice to remove the garage was issued by the PRBD on August 5th, 2021. On October 28, 2021, the Pueblo Code Enforcement Division of the Pueblo Police Department issued a Zoning Notice of Violation and Order to Correct pertaining to several items including the detached accessory structure. The Order to Correct specifically cited that the structure was built too close to the rear-yard setback.

In addition to the structure not meeting the rear-yard setback; the structure has metal siding, which is prohibited by §17-4-23, (c), (9), of the Municipal Code. The code also prohibits the Zoning Board of Appeals from granting a variance from the metal siding prohibition.

The applicant has indicated that this hardship is a byproduct of malpractice by a contractor. If the board chooses to approve this variance, Planning department staff have included recommendations to reconcile issues of architectural compatibility.

ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Single-family Residential (R-2) Zone District	Single-family Residential
East	Single-family Residential (R-2) Zone District	Single-family Residential
South	Single-family Residential (R-2) Zone District	Single-family Residential
West	Single-family Residential (R-2) Zone District	Dreamland Mobile Home Park

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	Please see attached
Fire Department	No comment
City Public Works Department	No comment
City Stormwater Department	No comment
City Code Enforcement	Please see attached
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: Neutral Finding. The structure, which is encroaching into the rear setback, could negatively affect the amount of sunlight exposure in the backyard of the property immediately to the south.

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: Negative Finding. The strict adherence to the code would have resulted in a structure that was in the proper setbacks, made of the proper materials, and architecturally compatible with the principle structure.

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: Negative Finding. The construction of the metal detached accessory structure within the rear setback is a self-imposed hardship.

PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

If the Board chooses to approve this Variance staff recommends the following in addition to the Standard Permit Conditions 1 through 13.

- The detached accessory structure should be brought into compliance with Section 17-4-23 (c)(5) a, b.

(5) Detached accessory structures two hundred (200) square feet or more shall be approved by the Planning and Community Development Department prior to installation, and shall comply with the following requirements:

- a. Structures larger than two hundred (200) square feet, or higher than ten (10) feet at the highest point shall be architecturally compatible with the principal structure;*
- b. For the purposes of this Section, compatibility shall mean construction of similar material and details, which shall include similar siding material and color, and similar roofing material, color and pitch;*

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

Standard Permit Conditions Date of Issuance of Permit: 11/23/2021	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 11/23/2022
2.	Required Revisions 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.	Changes 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.	Property Inspection 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.	Certificate of Occupancy 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.	Completion and Maintenance of Improvements and Landscaping 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.	Building Permit; Other Permits Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state and federal permits.
8.	Off-Site Drainage 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.	Appeals 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.	Errors 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.	Transfer of Ownership 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.	Violations/Penalties 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.	Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals. 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

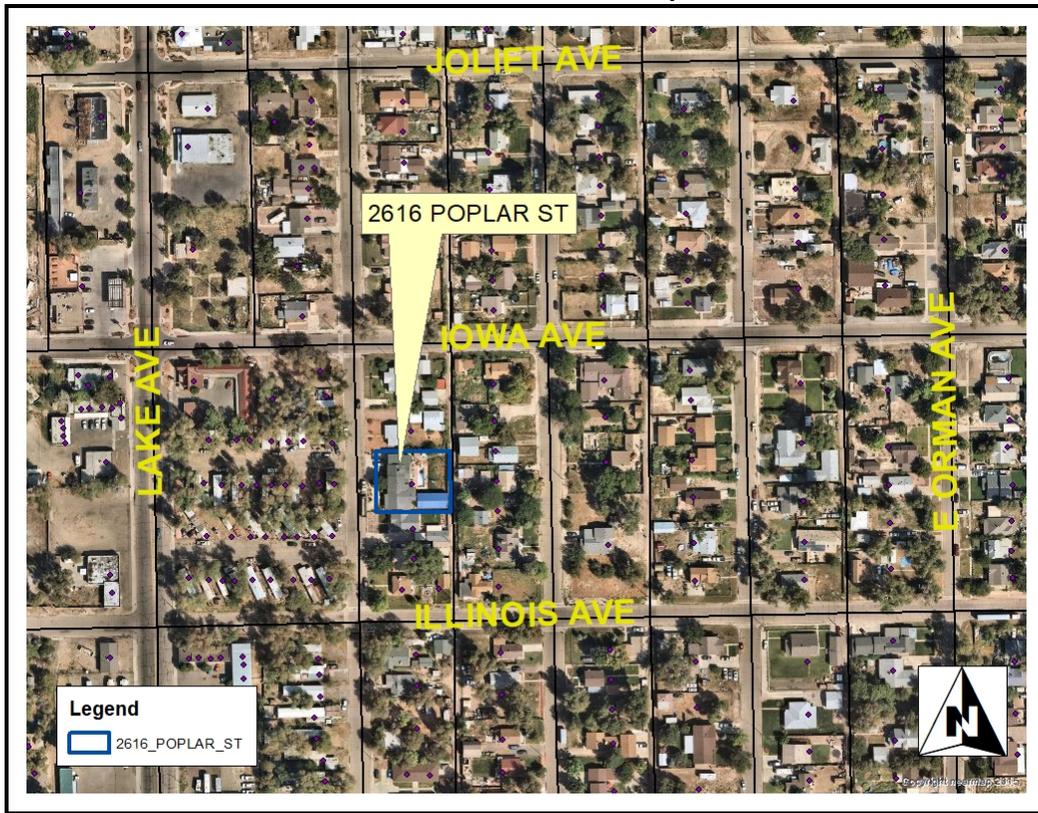


Exhibit C. Site Map



Exhibit D. Zoning Map

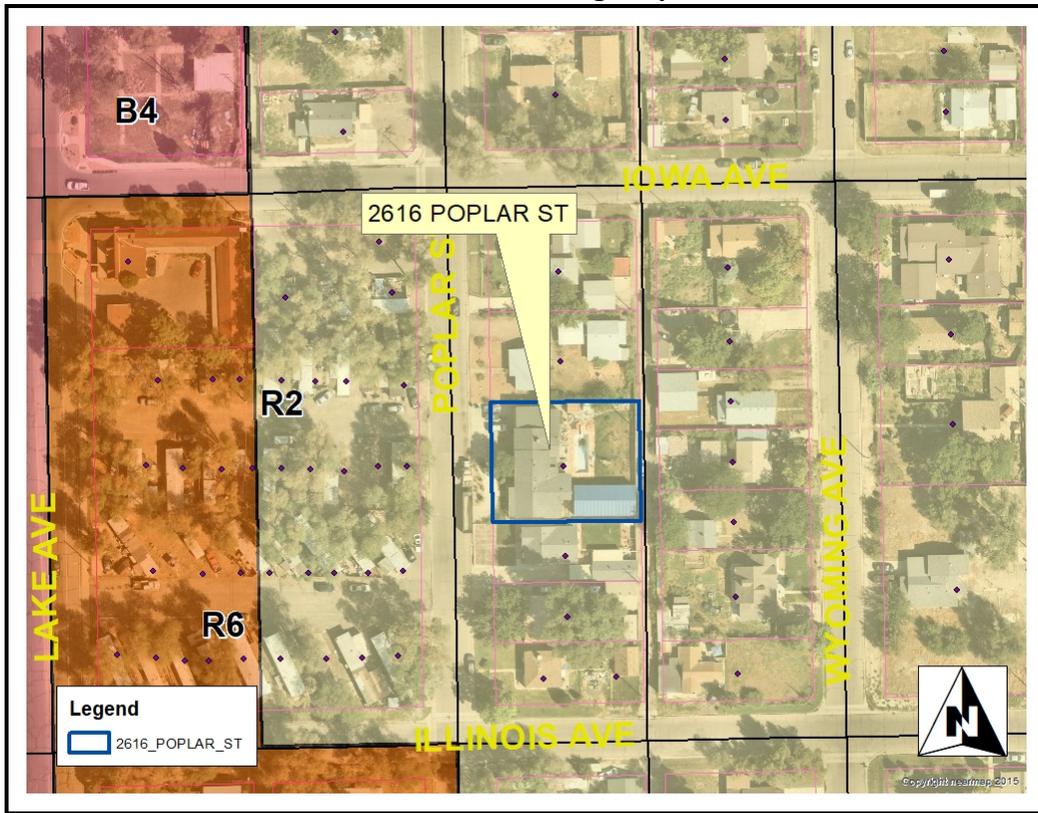


Exhibit E. Comprehensive Plan Map

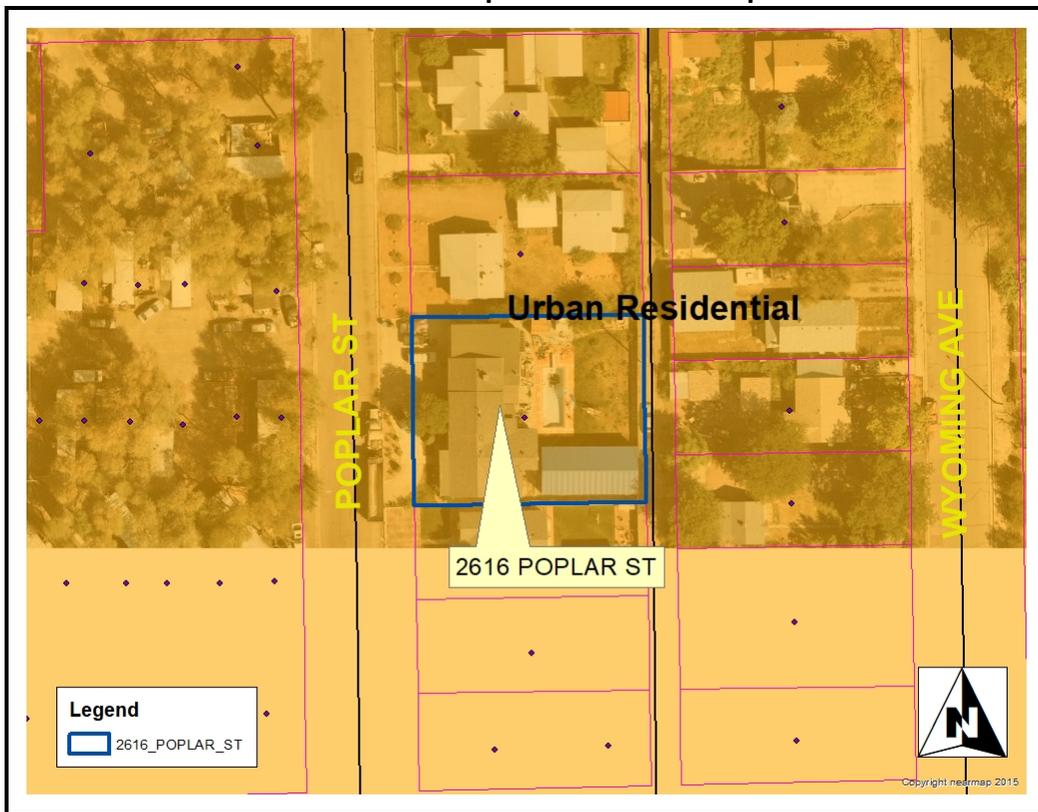


Exhibit F. Public Notice



Taken from Poplar St facing east.



Taken from alley facing west.



Taken from alley facing west.



Taken from Poplar St facing east.

Exhibit H. Application

APPLICATION COMPLETED IN OPEN GOV

Terms

I declare, under penalty of perjury, that this application has been examined by me and that the statements made herein are to the best of my knowledge and belief true, correct and complete.

By submitting this application, I stipulate and acknowledge that:

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. 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.
4. 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.

Is the applicant and property owner the same? *

Yes

Applicant/Property Owner Signature *

✓ Francis Salazar
Nov 1, 2021

11/2/21, 11:46 AM

OpenGov

I purchased a garage from a professional company and they were suppose to take care of everything, permits, etc. Come to find out that the company did not do so and the garage is already up and has power.

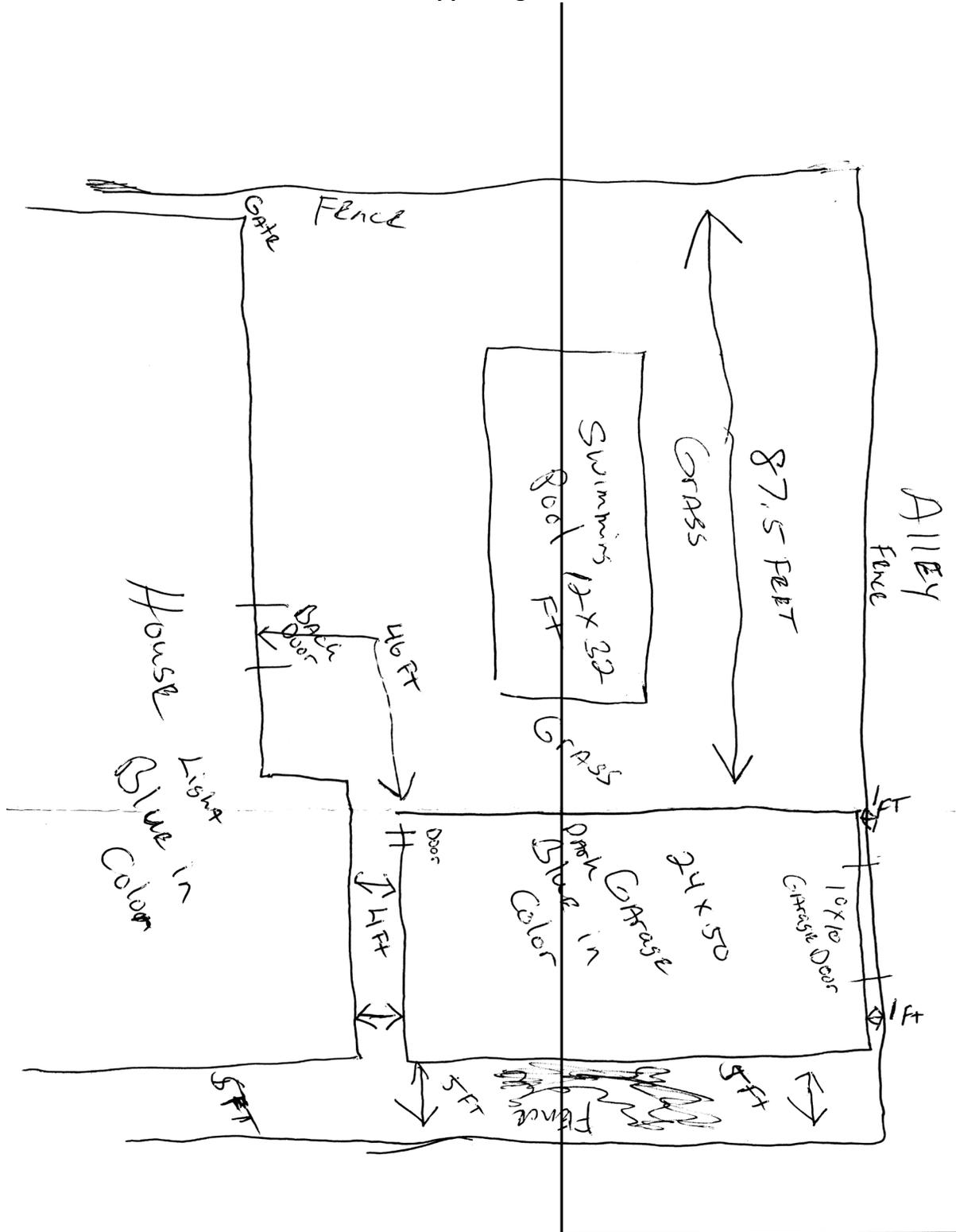
Justification of facts required for the request. Be specific.

Garage is already up and has power, no outlets or lights because we were told to stop working until we acquired permits. The house is light blue and the garage is dark blue. I have invested over 25000.00 dollars in this building with cement and accessories for the building, and feel that I shouldn't be punished for paying a company for supposedly taking care of everything correctly. I was also, recently notified by code enforcement of the Pueblo Police Dept, Mike C. about the building being put up with no permit. Had to explain to him what we are doing with zoning and he informed me of how everything looked good to code and the offsets were good, the colors looked nice, and how he wished he had one.

Are there any concurrent zoning requests?

No

Exhibit I. Supporting Documents





City of Pueblo
Code Enforcement Unit

200 South Main Street, Pueblo, CO 81003



Pueblo Police Department / 200 S. Main Street / Pueblo, CO 81003 / Tel 719-553-2592 / www.Pueblo.us

ZONING
NOTICE OF VIOLATION AND ORDER TO CORRECT

SALAZAR, FRANCIS
2616 POPLAR ST
PUEBLO, CO 81004-4060

Violation Address: 2616 POPLAR STREET(Parcel 1513253003)

Notice of Violation and Order: Violation of Chapter 17, Zoning regulations, Pueblo Municipal Code, at **2616 POPLAR STREET**, an R-2 Single-Family Residential.

Pueblo Municipal Code, Title 17 Zoning
§ 17-4, *Zone Districts; Regulations, Use Index;*
§ 17-5, *Administration;* and,
§ 17-7, *Violations and Penalties.*

NOTICE IS HEREBY GIVEN that the Zoning Official pursuant to the Pueblo Municipal Code has found that property located at the above described address is in violation due to the following:

CONDITIONS AND VIOLATIONS

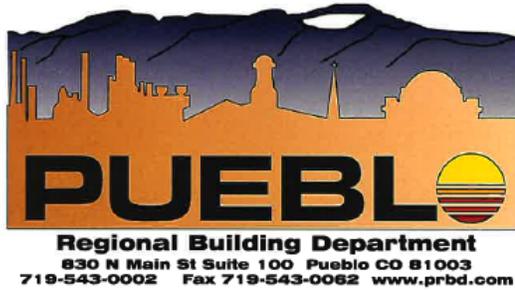
17-4-23(e) Accessory Buildings and Structures Appeal
Accessory Building and Structures

(e) Appeal procedures; variances. To obtain a variance from the requirements of this Section, the property owner must prove that a variance is needed to avoid unnecessary hardship and will not undermine the purpose and intent of the zoning ordinances. The alleged hardship cannot be self-imposed and must be of a type unique to the property owner; that is, a hardship not generally shared by other property owners in the zone district.

17-4-23(a) Accessory Buildings and Structures General
Sec. 17-4-23. - Accessory buildings and structures.

(a) General provisions. All accessory structures shall comply with the following general conditions:

- (1) Be clearly incidental and customarily used in connection with the principal use;
- (2) Be located on the same lot as the principal use and structure;
- (3) Except as provided in Paragraphs 17-4-23(c)(3) and 17-4-23(d)(4) below, no accessory structure shall be built or placed within any required front, side or rear yard setback;



Regional Building Department
 830 N Main St Suite 100
 Pueblo, CO 81003
 719-543-0002 Fax 719-543-0062
www.prbd.com permits@prbd.com

Address:

**2616 POPLAR ST.
 Pueblo, CO 81004**

Inspections for record: 2190191

Permit type:

Date	Inspector	Inspection	Result	Comments	Service
2021-06-24 00:00:00	JAB	Z08 INFORMATION	Complete	SENT LETTER WITH PROOF OF MAILING REQUIRING CORRECTIONS BY 08/03/21	
2021-06-24 10:40:00	JDP	I02- Stop Work Order	Complete	garage no permit.	
2021-08-04 02:09:00	JDP	C01- Complaint	Complete	Garage has not been removed or permitted send second letter giving an additional 30 days then send to court.	
2021-08-05 00:00:00	JJK	Z08 INFORMATION	Complete	SENT 2ND NOTICE REGARDING CORRECTIONS	
2021-08-05 09:57:00	JDP	C01- Complaint	Complete	posted violation notice on front door.	
2021-10-14 00:00:00	JJK	Z12 CERTIFIED MAIL	Complete	CERT LETTER RETURNED UNCLAIMED	

No Final Given - Please review inspection notes.

Rejected - Inspection has failed to meet code requirements, review notes for required corrections.

Partial - Inspection has met sufficient requirements for work to proceed with a follow up to address any issues.

Complete - Inspection has passed code requirements and can proceed to the next step.

Final - Project has been completed to current code requirements and no further inspection is needed.