

Mike Castellucci  
Chair

Steve Anselmo  
Vice Chair



Lisa Bailey  
Secretary

Yvonne Lujan-Slak

Georgia Way

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## ZBA-22-03

Hearing Date: March 22, 2022

<b>TO:</b>	City of Pueblo Zoning Board of Appeals
<b>FROM:</b>	Danielle Baxter, Planner
<b>THROUGH:</b>	Scott Hobson, Land Use Administrative Official
<b>LOCATION:</b>	<b>1103 Damson St, Pueblo, CO 81001</b>
<b>APPLICANT:</b>	<b>Benito Garcia</b>
<b>PROPERTY OWNER:</b>	Benito Garcia
<b>YEAR BUILT:</b>	1929
<b>LEGAL DESCRIPTION:</b>	LOTS 15 + 16 BLK 35 MATTICE + GIBSON ADD
<b>ZONE DISTRICT:</b>	Single Family Residential (R-2 Zone) District
<b>PARCEL ID:</b>	431417007
<b>LOT SIZE:</b>	<b>6,120 sqft</b>
<b>REQUEST:</b>	Variance to reduce the required second front yard setback from 12.5 feet to 9.5 feet and allow for an addition of gross floor area greater than forty percent (40%) in a Single Family Residential (R-2 Zone) District

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### SYNOPSIS OF REQUEST

The applicant is requesting a variance to build a one hundred and fifty-two (152 sqft) square foot addition onto an existing legal non-conforming, single-family home located at 1103 Damson St. The existing single-family home, built in 1929, is non-conforming because of an inadequate second front yard setback of approximately nine and a half (9.5) feet along S. Joplin Ave, whereas the district standard for the R-2 Zone District is twelve and a half (12.5) feet. Furthermore, because the house itself is relatively small, two hundred and eighty-five (285 sqft) square feet, the proportion of the addition to the existing structure is an increase of approximately fifty-three (53%) percent. According to section 17-3-4 (5) of the Pueblo Municipal Code (pertaining to Nonconforming Structures), "Any enlargement that is greater than forty percent (40%) of the gross floor area, is taller than the original building, or any addition that encroaches into a required setback, must be approved with a permit or variance from the Zoning Board of Appeals." Therefore, in accordance with the Pueblo Municipal Code, a variance must be granted before a building permit can be issued for the proposed addition.

### ANALYSIS OF REQUEST

The subject property is six thousand one hundred and twenty (6,120 sqft) square foot lot with a two hundred eighty-five square foot (285 sqft) single family home built in 1929. The residence is in the Mattice & Gibson Addition Subdivision, located in the southeast side of town. The house is small by modern standards and the proposed addition would not create any additional encroachments into the property setbacks because there is already an unpermitted addition to this side of the building. The Planning Department and Pueblo Regional Building Department do not have any information as to when this addition was added to the home as it was not permitted.

The applicant is proposing to remove approximately one hundred (100) square feet of the existing structure (an addition completed in 1947), which housed the only bathroom and bedroom, and reconstruct with an extra fifty (50) square feet of living space to change the home from its current "L" shape to a square structure with uniform siding and roofing. The secondary frontage will not change from its current twenty-four (24) foot length. The applicant will expand the additional living space requested to the northeast side of the home. Because the proposed addition will be an approximate increase of 53% from the original home's square footage, Sec 17-4-

11(4)(a) is applicable, which states that the addition must be architecturally compatible with the existing structure. This shall include construction using similar siding materials, color, and similar roofing material, color, and pitch.

The principal structure is non-conforming because of the inadequate second front yard setback, however this nonconformance is shared by several of the neighboring properties. Regardless, according to the Pueblo Municipal Code a variance is required in the case of a significant enlargement to a non-conforming structure.

**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	Damson St; Single-family Residential
West	Single-family Residential (R-2) Zone District	S. Joplin Ave; Single-family Residential

**COMPREHENSIVE PLAN**

The comprehensive plan depicts Urban Residential for this parcel. Urban Residential neighborhoods are found predominantly within the city limits of Pueblo and the urbanizing areas in the City’s immediate periphery. They are generally located on a grid roadway network that interconnects a large portion of the urban area. The existing mixture of housing types that range from single family detached housing to duplexes and multi-family housing will be continued with emphasis on maintaining the existing housing stock and in-fill development. Where appropriate, community scale commercial services will be created to provide the necessary day-to-day needs of residents within walking distance. Development in these Urban Neighborhoods is typically at densities of 4 to 7 units per acre and often reflects the traditional urban residential layout used in the early development of Pueblo. As the City of Pueblo expands to the north, south and southwest, a continuation of these Urban Residential Areas should be continued. Interconnected neighborhoods, sanitary sewer and neighborhood parks should be an integral part of the development.

**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	Per email from Roger Anderson, dated February 14, 2022, “Pueblo Regional Building has no objections to the submission. Normal building permit and plan review will be required at time of permit application.”
Fire Department	No comment
City Public Works Department	Per email from Joe Martellaro, dated February 11, 2022 “new sidewalks and replacement of sidewalks, if applicable, will be required to meet current standards.”
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 addition will not reduce light and air to adjacent properties.**

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 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. The house was built in 1929, strict adherence to the code would not allow for the requested expansion of the bedrooms to support the needs of a family trying to occupy the residence.**

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 age of the principal structure being a hundred years old, it does not meet many of the spatial standards of modern development, and since it was built before the zoning code it does not comply with the district setbacks.**

### PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

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

1. Addition must be architecturally compatible. This shall include similar siding materials 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**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>03/22/2022</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>03/22/2023</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**

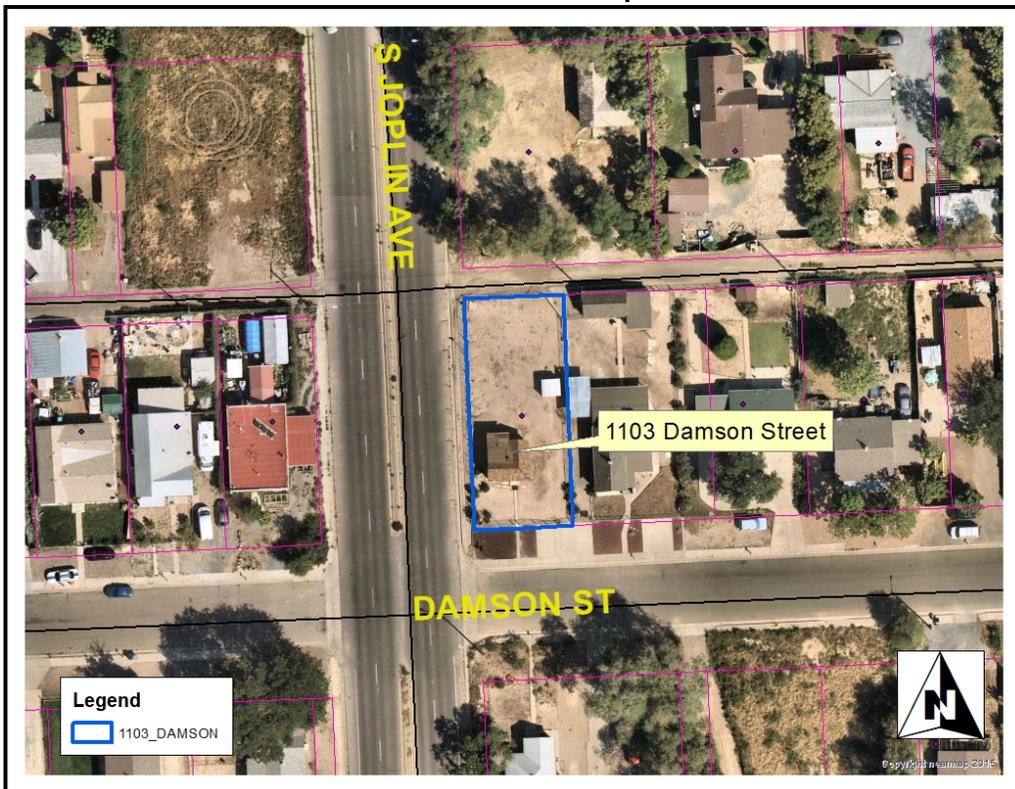


Exhibit D. Zoning Map

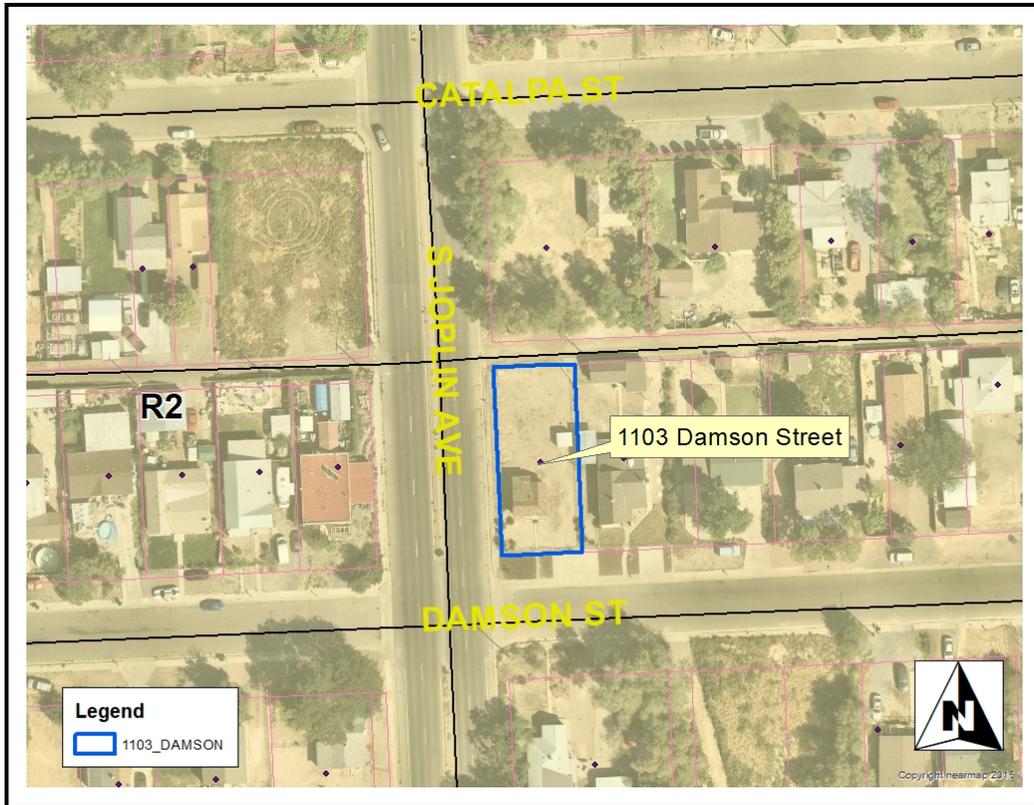
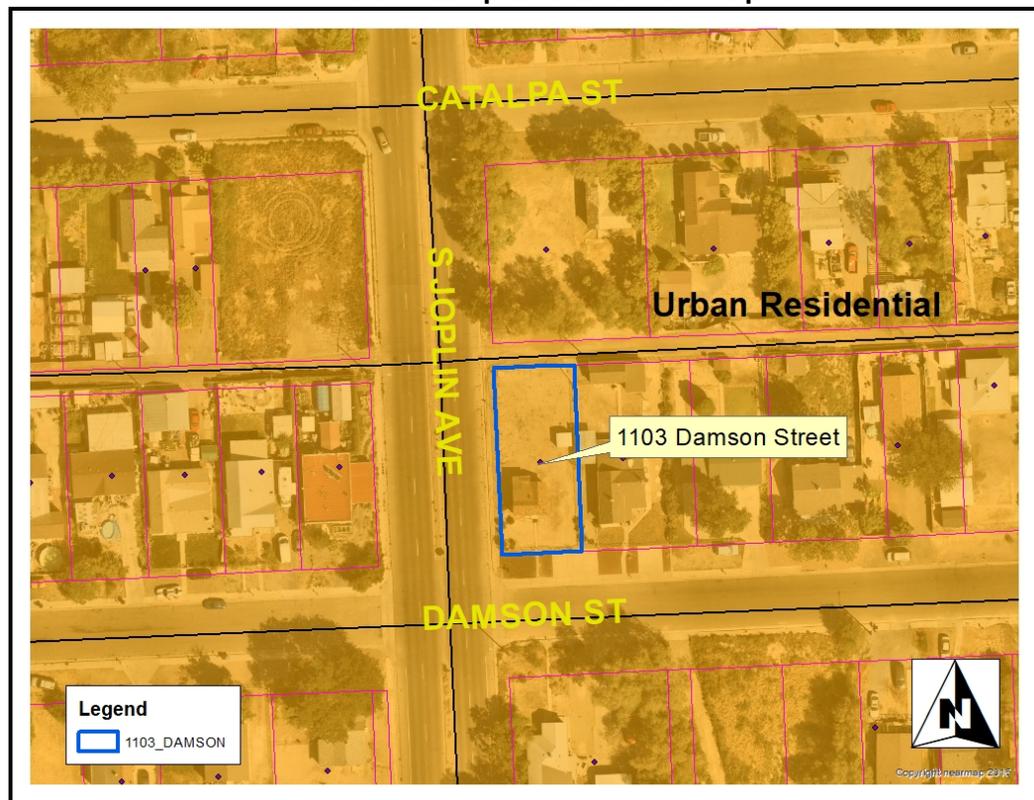


Exhibit E. Comprehensive Plan Map



**Exhibit F. Public Notice**



Taken from Damson St facing north.

**Exhibit G. Site Pictures**



Taken from Damson St facing northwest



Taken from Joplin Ave facing north.



Taken from Joplin Ave facing east.



Taken from Joplin Ave alley facing south.

Exhibit H. Application

1/26/22, 12:05 PM

OpenGov



01/26/2022

22-12

Zoning Board of Appeals - Special Use Permit & Variances

Status: Active

Date Created: Jan 24, 2022

Applicant

Benito Garcia  
benexa2012@gmail.com  
705 LOCUST AVE  
LOCHBUIE, CO 80603  
3033177612

Location

1103 DAMSON ST  
PUEBLO, CO 81001

Owner:

Benito Garcia/Benito Garcia Estrada  
705 LOCUST AVE LOCHBUIE, CO 80603

Internal

ZBA Case Number

ZBA-22-03

Planner Assigned

--

Hearing Date

02/23/2022

ZBA

Hearing Results

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Board Conditions

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Appeal Term End Date

--

Permit Completion Date

--

Specially Requested Hearing

Public Notice

Number of Posters

1

Number of Postcards Sent

8

Cost of Newspaper Notice

--

Public Notice Costs

9

Other Fees:

--

Public Notice costs must be paid by:

--

Public notice zoning poster must be displayed BY:

--

Public Notice zoning poster must be displayed UNTIL:

--

Scope of Work

Type of Request

Variance

Variance Type

Setback

**Provide a short description of the proposed request:**

Request to add an addition to my house with a setback variance of 9.5 ft from the secondary frontage.

**What is the general use of the property**

Residential

**Detailed explanation of the request as listed above.**

My house sits on the corner of Damson St. and S. Joplin Ave. Current zoning rules state that any structure on a corner lot must have a secondary frontage setback that is half the distance of the primary frontage. In my case, a 12.5 ft setback is required on the secondary frontage since the primary frontage setback should be 25 ft. The house is currently 9.5 ft from the secondary frontage, S. Joplin Ave. I am respectfully requesting that the Zoning Board of Appeals allow me to build a 120 sq ft livable addition to the house with a 9.5 ft setback variance from the secondary frontage. Said addition, would include and extension of the original secondary frontage facing wall from 20 ft to 24 ft.

**Justification of facts required for the request. Be specific.**

The original structure and square footage reported to the county is only 320 sq ft. Currently, though, an unreported addition of approximately 100 square feet, 9.5 ft from the secondary frontage, already exists. It is apparent that the addition has existed for many decades and already extends the secondary frontage facing wall from 20 ft to 24 ft. In it, are a bedroom and the only bathroom. Then addition has given the house an awkward L-shape and made the roof a series of different styles pieced together. I wish to demolish the addition down to its foundation and add an additional 20 sq ft in order make the house a solid square structure. Furthermore, with a single square structure established, the current pieced-together roof would be completely replaced with a new uniform gable roof. All of this would require that the addition continue to have a 9.5 ft setback from the secondary frontage. A square structure and a new gable roof would not only improve the house's structural integrity, but also be much more aesthetically pleasing to the neighborhood.

Please see the attached document for assistance with Justification of Facts:

 ZBA Use by Review Assistance  
([https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA\\_Use\\_by\\_Review\\_HANDOUT\\_06-2020\\_Thu\\_Jul\\_22\\_2021\\_15:43:00\\_GMT+0000\\_\(Greenwich\\_Mean\\_Ti](https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA_Use_by_Review_HANDOUT_06-2020_Thu_Jul_22_2021_15:43:00_GMT+0000_(Greenwich_Mean_Ti)

Please see the attached document for assistance with Justification of Facts:

 ZBA Non-Residential Variance Assistance  
([https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA\\_Non-Residential\\_Variance\\_HANDOUT\\_06-2020\\_Fri\\_Jul\\_22\\_2021\\_15:42:48\\_GMT+0000\\_\(Greenwich\\_Mean\\_Ti](https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA_Non-Residential_Variance_HANDOUT_06-2020_Fri_Jul_22_2021_15:42:48_GMT+0000_(Greenwich_Mean_Ti)

 ZBA Residential Variance Assistance  
([https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA\\_Residential\\_Variance\\_HANDOUT\\_06-2020\\_Thu\\_Jul\\_22\\_2021\\_15:42:55\\_GMT+0000\\_\(Greenwich\\_Mean\\_Ti](https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA_Residential_Variance_HANDOUT_06-2020_Thu_Jul_22_2021_15:42:55_GMT+0000_(Greenwich_Mean_Ti)

**Are there any concurrent zoning requests?**

No

**Variance Justification of Facts**

**Describe how 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.**

The granting of the variance will not adversely affect properties one hundred feet of the property since the variance will be towards a secondary frontage; no property owners exist on the secondary frontage. Granting the variance would in fact keep the addition further away from the only affected property owner, east of the lot. Granting the variance would also improve the monetary value of any properties within 100 ft as it would allow the house to have more livable square footage, be more aesthetically pleasing, and be up to code.

**Describe how 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.**

The addition only extends the rear of the house and is in line with the original structure and pattern of the rest of the neighborhood.

**Describe how strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.**

Forcing the addition to be setback 12.5 ft from the secondary frontage would give an odd looking L-shape to the house and prevent the use of a uniform gable roof.

**Describe how 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.**

The house was built well before the zoning code which makes it difficult to add on while meeting current code.

**Terms**

1/26/22, 12:05 PM

OpenGov

**Is the applicant and property owner the same?**

Yes

**Applicant/Property Owner Signature**

Benito Garcia  
01/16/2022

**Attachments**

-  1103 Damson Plot Plan.PDF  
Uploaded by Benito Garcia on Jan 24, 2022 at 12:34 pm
-  1103 Damson Pictures.pdf  
Uploaded by Benito Garcia on Jan 24, 2022 at 12:47 pm
-  1103 Damson Variance Request.PDF  
Uploaded by Benito Garcia on Jan 24, 2022 at 12:54 pm
-  Pueblo County Assessor's Real Property Search.PDF  
Uploaded by Benito Garcia on Jan 24, 2022 at 12:55 pm
-  Proposed Floor Plan.PDF  
Uploaded by Benito Garcia on Jan 24, 2022 at 1:43 pm

**History**

Date	Activity
Jan 11, 2022 at 12:58 pm	Benito Garcia started a draft of Record 22-12
Jan 15, 2022 at 9:25 pm	Benito Garcia altered Record 22-12, changed owner StreetName from "1105 DAMSON ST" to "LOCUST AVE"
Jan 15, 2022 at 9:25 pm	Benito Garcia altered Record 22-12, changed owner StreetNo from "705 LOCUST AVE" to "705"
Jan 24, 2022 at 12:54 pm	Benito Garcia added attachment Pueblo County Assessor's Real Property Search.PDF to Record 22-12
Jan 24, 2022 at 1:40 pm	Benito Garcia added attachment Proposed Floor Plan (1st floor).PDF to Record 22-12
Jan 24, 2022 at 1:41 pm	Benito Garcia removed attachment Proposed Floor Plan (1st floor).PDF from Record 22-12
Jan 24, 2022 at 1:42 pm	Benito Garcia added attachment Proposed Floor Plan.PDF to Record 22-12
Jan 24, 2022 at 1:44 pm	Benito Garcia submitted Record 22-12
Jan 24, 2022 at 1:44 pm	approval step Fee Review was assigned to Planning Front Counter on Record 22-12
Jan 24, 2022 at 1:44 pm	changed the deadline to Jan 26, 2022 on approval step Fee Review on Record 22-12
Jan 24, 2022 at 2:33 pm	Carol Martinez assigned approval step Fee Review to Carol Martinez on Record 22-12
Jan 24, 2022 at 3:45 pm	Karen Elgin changed ZBA Case Number from "" to "ZBA-22-03" on Record 22-12
Jan 24, 2022 at 3:45 pm	Karen Elgin changed Hearing Date from "" to "02/23/2022" on Record 22-12
Jan 24, 2022 at 4:49 pm	Karen Elgin changed Number of Posters from "" to "1" on Record 22-12
Jan 24, 2022 at 4:49 pm	Karen Elgin changed Public Notice Costs from "0" to "1" on Record 22-12
Jan 24, 2022 at 4:51 pm	Karen Elgin changed Public Notice Costs from "1" to "9" on Record 22-12
Jan 24, 2022 at 4:51 pm	Karen Elgin changed Number of Postcards Sent from "" to "8" on Record 22-12
Jan 25, 2022 at 10:39 am	Carol Martinez approved approval step Fee Review on Record 22-12
Jan 26, 2022 at 8:39 am	completed payment step Application Fee on Record 22-12
Jan 26, 2022 at 8:39 am	approval step Intake Review was assigned to Planning Front Counter on Record 22-12
Jan 26, 2022 at 8:39 am	approval step Land Use Tech Review was assigned to Karen Elgin on Record 22-12
Jan 26, 2022 at 8:39 am	approval step Case Assignment was assigned to Beritt Odom on Record 22-12
Jan 26, 2022 at 8:39 am	changed the deadline to Jan 27, 2022 on approval step Case Assignment on Record 22-12
Jan 26, 2022 at 9:08 am	Carol Martinez assigned approval step Intake Review to Carol Martinez on Record 22-12
Jan 26, 2022 at 9:08 am	Carol Martinez approved approval step Intake Review on Record 22-12

**Timeline**

Label	Status	Activated	Completed	Assignee	Due Date
 Fee Review	Complete	Jan 24, 2022 at 1:44 pm	Jan 25, 2022 at 10:39 am	Carol Martinez	01/25/2022
 Application Fee	Paid	Jan 25, 2022 at 10:39 am	Jan 26, 2022 at 8:39 am	-	-

<https://pueblo.viewpointcloud.io/#/explore/records/25584/printable?act=true&app=true&att=true&emp=true&int=true&loc=true&sec=1011981%2C10...> 3/4

Label	Status	Activated	Completed	Assignee	Due Date
 Intake Review	Complete	Jan 26, 2022 at 8:39 am	Jan 26, 2022 at 9:08 am	Carol Martinez	-
 Land Use Tech Review	Active	Jan 26, 2022 at 8:39 am	-	Karen Elgin	-
 Case Assignment	Active	Jan 26, 2022 at 8:39 am	-	Beritt Odom	01/26/2022
 Planning (Zoning) Initial Review of Submittal	Inactive	-	-	-	-
 Public Notice	Inactive	-	-	-	-
 Public Notice Memo	Inactive	-	-	-	-
 Public Notice Fee	Inactive	-	-	-	-
 Staff Report and Agenda Distribution	Inactive	-	-	-	-
 ZBA Hearing Outcome	Inactive	-	-	-	-
 Review Permit	Inactive	-	-	-	-
 Final Inspection	Inactive	-	-	-	-

**Exhibit I. Supporting Documents**

Benito Garcia  
1103 Damson St  
Pueblo, CO 81001  
Tel (303)317-7612  
Benexa2012@gmail.com

JANUARY 24, 2022

**Zoning Board of Appeals**  
Pueblo, CO

Dear Board Members,

I hope you are all doing well.

The motive for this letter is to request a setback variance.

It is my desire to construct a 120 square foot livable addition to my house on 1103 Damson Street. It has two frontages, the primary faces Damson St. and the secondary faces S. Joplin Ave. Current zoning rules state that the secondary frontage setback for the structure must be half the distance of the primary frontage setback. In my case, it needs to be 12.5 feet. However, the house only has a 9.5 foot secondary frontage setback. I respectfully request a variance approval from the board to build the addition with a 9.5 foot secondary frontage setback so that it may be in line with the rest of the house.

The original structure and square footage reported to the county is only 320 square feet. Currently, though, an unreported addition of approximately 100 square feet, also 9.5 ft. from the secondary frontage, already exists. It is apparent that the addition, which contains the bathroom and a bedroom, has existed for many decades. It has given the house an awkward L-shape and made the roof a series of pieced together styles. It is my intent to demolish the addition down to its foundation and rebuild it with an additional 20 sq. ft. in order make the house a solid square structure. Furthermore, with a single square structure established, the current pieced-together roof would be completely replaced with a new uniform gable roof.

A square structure and a new gable roof would not only improve the house's structural integrity, but also be much more aesthetically pleasing to the neighborhood.

It is for these reasons that I am seeking a setback variance approval.

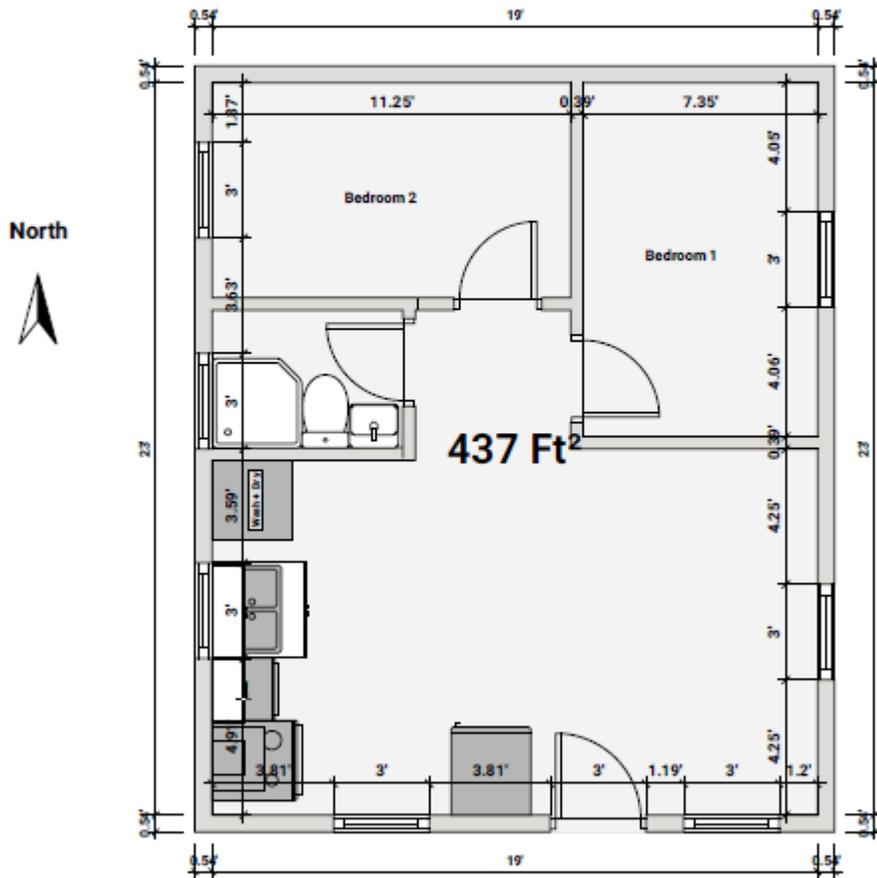
I thank you for your time and consideration on this matter,

Warm regards,

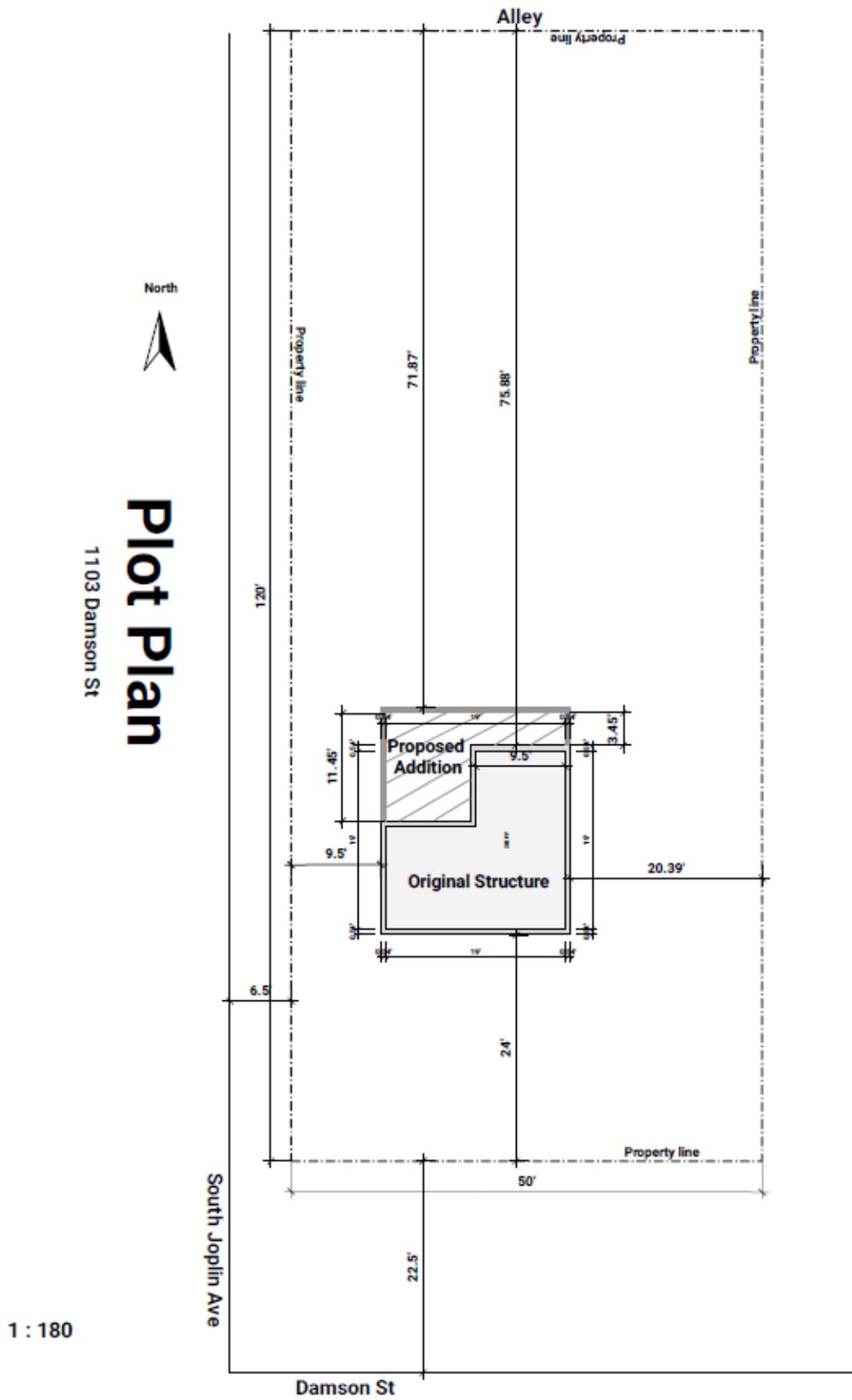


Benito Garcia

# Proposed Floor Plan



1 : 65





**Front/Primary Frontage**



**Secondary Frontage**



**Unreported Addition**



**Rear of addition**