

Mike Castellucci
Chair

Steve Anselmo
Vice Chair



Lisa Bailey
Secretary

Yvonne Lujan-Slak

Georgia Way

ZBA-22-49

Hearing Date: 12/28/2022

TO: City of Pueblo Zoning Board of Appeals
FROM: Bart Mikitowicz, Senior Planner
THROUGH: Scott Hobson, Land Use Administrative Official
LOCATION: 108-112 S Iola Ave, Pueblo, CO 81004
APPLICANT: John DuVall
PROPERTY OWNER: Mercado Angel
YEAR BUILT: 1900
LEGAL DESCRIPTION: LOTS 11 TO 14 BLK 15 MATTICES ADD
ZONE DISTRICT: Mixed Residential (R-4) Zone District
PARCEL ID: 431139006
STRUCTURE SIZE: 1,890 sqft

REQUEST:	Variance to reduce the side-yard setback for a two-story home and garage from 5' to 2.9', a second side-yard setback from 5' to 4', and a front yard setback from 25' to 15.1' in a Mixed Residential (R-4) Zone District
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SYNOPSIS OF REQUEST

112 S. Iola is a 12,000 square foot parcel consisting of four lots, Lots 11-14, Block 15 Mattices Addition, located in the lower East Side Neighborhood. The parcel is currently developed with a two-story, 1,392 square foot home constructed prior to 1900 and a detached accessory structure located in the southeast corner of the parcel. The residence was constructed 15.1 feet from the front property line, adjacent to Iola Ave, and 2.9 feet from the alley. The garage was constructed four feet from the eastern property line and 4.4 feet from the alley. The applicant intends to submit a Rearrangement of property boundaries to split the parcel into two buildable lots, allowing the development of a duplex to the north of the existing structures. Prior to rearranging the lots/parcel, the existing legal non-conforming structures, must receive a variance for the front, side, and second side-yard setbacks.

ANALYSIS

The existing home is a late Victorian/Second Empire structure and contains two dwelling units. The garage was built much later than the house and constructed of concrete block. The garage has all the infrastructure to create a separate dwelling unit, the applicant plans to remove the garage door and complete the dwelling unit conversion upon the approval of the requested variance. The property is in a R-4, Mixed Residential District, which allows multiple dwelling units as long as the lot provides 1,500 square feet of lot area per dwelling unit. The existing parcel has ample space for three dwelling units; once rearranged, the south lot will provide a minimum of 5,000 square feet, meeting the required 4,500 square foot lot area requirement for three dwelling units, and the north lot will also have a minimum of 5,000 square feet, meeting the minimum lot area requirement for a duplex.

ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Mixed Residential (R-4) Zone District	Single-family residences
East	Mixed Residential (R-4) Zone District	Single-family residences
South	Mixed Residential (R-4) Zone District	Single-family residences
West	Mixed Residential (R-4) Zone District	Single-family residences

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, all structures are located to adjacent to public rights-of-way; therefore, light and air will not be reduced for neighboring properties. Additionally, the existing structures have been in their current location for more than 50-years.

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, the variance will not affect land use and the locations 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 R-4 Zone District allows for multiple dwelling units and the existing parcel provides adequate lot area to establish multiple dwelling units. However, because the structures were constructed prior to the current zoning regulations, they do not meet the setback requirements, limiting the ability to provide multiple dwelling units on the site. The variance will allow the applicant to establish three dwelling units in the southern portion of the site. The proposed variance and a future Rearrangement of Property Boundaries will facilitate the construction of a duplex meeting the intent of the multifamily zone district.

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: Neutral finding, the residence was built around 1893 prior to current setback regulations, creating a legal non-conforming situation. The garage was constructed at a later date; however, it was most likely constructed prior to 1968, which established the current setback regulations creating a second legal non-conforming situation. Legal non-conforming status is common for many historic structures within the City; the non-conforming status limits redevelopment opportunities without being granted a variance for 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 conditions.

1. The existing detached accessory structure, located in the southeast corner of the parcel, must provide the following exterior improvements prior to Planning approving a CO for a dwelling unit in the structure:
 - a. Paint all doors and windows to match the principal residential structure.
 - b. Paint the walls and gables to match the principal residential structure.
2. Provide paved off-street parking, conforming to Section 17-4-43 of the Pueblo Municipal Code. before Planning Department approval of a CO for the proposed dwelling unit in the accessory structure.

ATTACHMENTS

- A. Standard Permit Conditions
- B. Site Map
- C. Aerial 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: ZBA-22-49	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 12/28/2023
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. Site Map



Exhibit C. Aerial Map

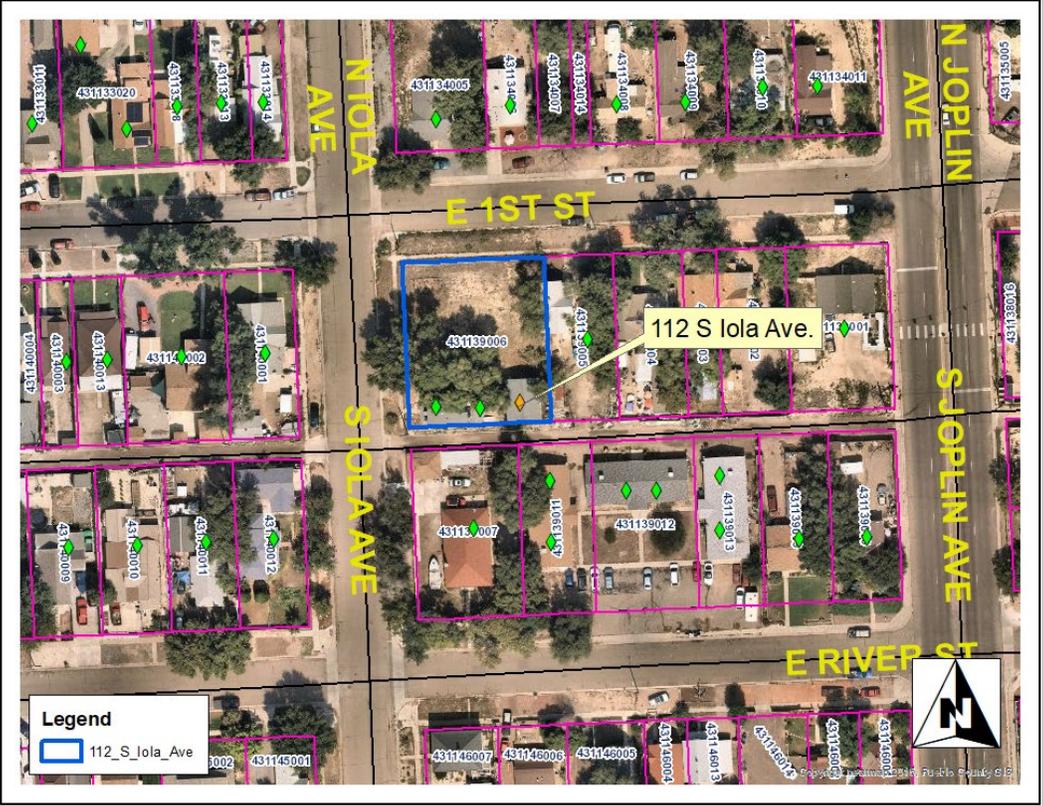


Exhibit D. Zoning Map



Exhibit E. Comprehensive Plan Map

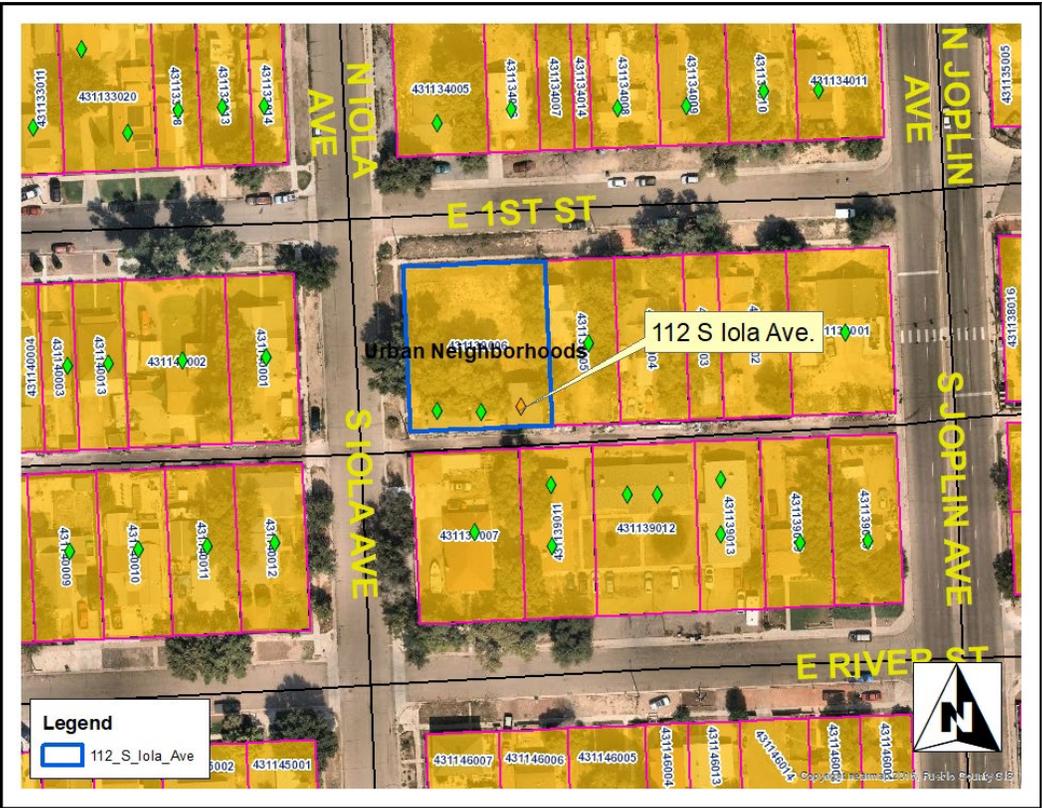


Exhibit F. Public Notice



Exhibit G. Site Photos



H. Application



11/09/2022

22-182

Zoning Board of Appeals - Special Use Permit & Variances

Status: Active

Date Created: Nov 9, 2022

Applicant

John DuVall
mdconstructionpueblo@gmail.com
2840 Lake Ave
Pueblo, CO 81004
(719) 251-3796

Primary Location

112 S IOLA AVE
PUEBLO, CO 81001

Owner:

MERCADO MIGUEL ANGEL
2834 LAKE AVE PUEBLO, CO 81004-3821

Internal

ZBA Case Number

ZBA-22-49

Planner Assigned

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ZBA

Hearing Date

12/28/2022

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

14

Cost of Newspaper Notice

--

Public Notice Costs

15

Other Fees:

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Public Notice costs must be paid by:

--

Public notice zoning poster must be displayed BY:

--

Public Notice zoning poster must be displayed UNTIL:

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Is a 1-year inspection required?

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Exhibit I. Supporting Documents



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

Property Owner Affidavit

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

Property Owner:			
Name: Miguel Mercado		Company:	
Address: 2840 Lake Avenue			
City: Pueblo		State: CO	Zip: 81004
Phone: 719-406-1167	Email: rebecca_lm@msn.com		
Applicant:			
Name: John DuVall		Company: MD Construction Co.	
Phone: 719-251-3796	Email: mdconstructionpueblo@gmail.com		
Property Address: 112 South Iola Ave, Pueblo, CO 81001			

I, Miguel Mercado, hereby state that I am the owner of record of the property located at 112 South Iola Ave, Pueblo, CO 81001, Pueblo, Colorado, and further acknowledge that by signing this affidavit I authorize the submission of an application for a Variance at said location.
(application type)

Miguel Mercado 10-25-22
 Signature of Property Owner Date

D:\CO Surveys\2022 Surveys\S22-53 Iola,LLA\Iola,LLA.dwg

Title work was provided by
Land Title Guarantee Company
Order No. OE1029659

COLORADO LAND
SURVEYORS, INC.
184 S. Tiffany Dr., Ste. 106
Pueblo West, CO 81007
719-542-9169

108 S. Iola Ave.
Pueblo, CO 81001

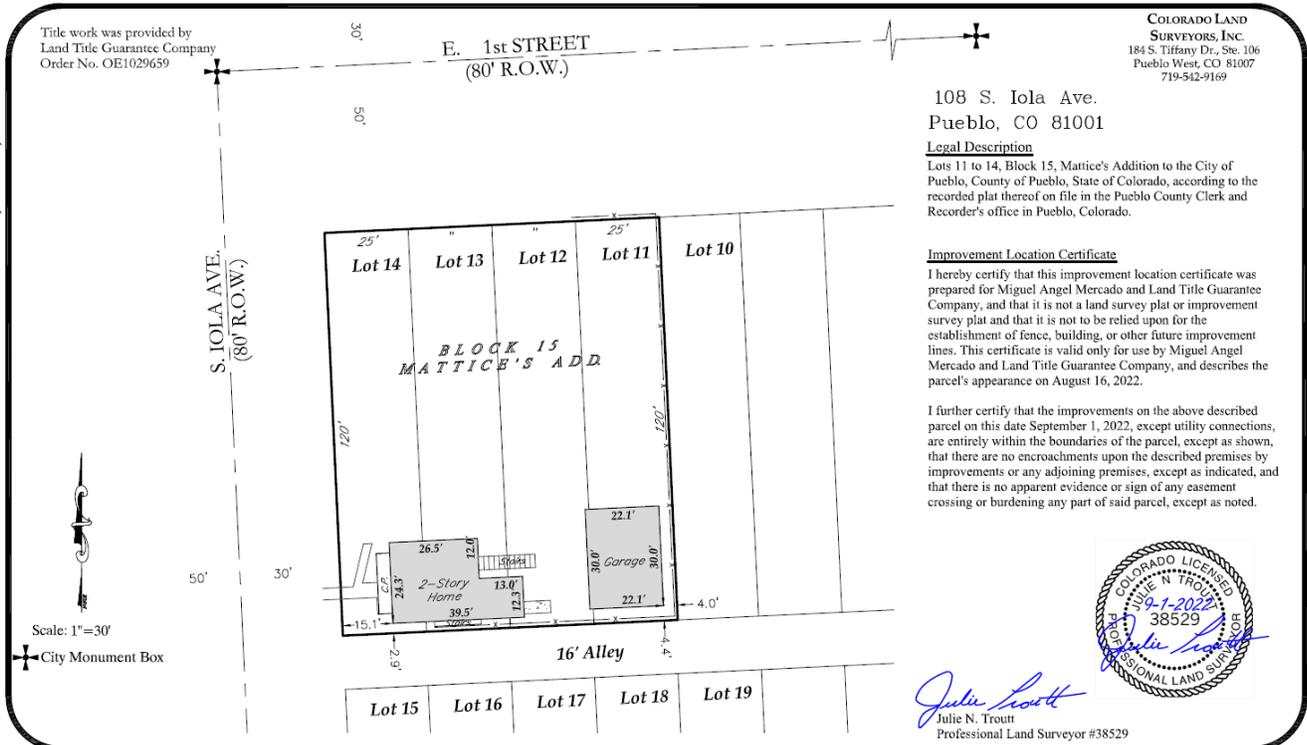
Legal Description

Lots 11 to 14, Block 15, Mattice's Addition to the City of Pueblo, County of Pueblo, State of Colorado, according to the recorded plat thereof on file in the Pueblo County Clerk and Recorder's office in Pueblo, Colorado.

Improvement Location Certificate

I hereby certify that this improvement location certificate was prepared for Miguel Angel Mercado and Land Title Guarantee Company, and that it is not a land survey plat or improvement survey plat and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines. This certificate is valid only for use by Miguel Angel Mercado and Land Title Guarantee Company, and describes the parcel's appearance on August 16, 2022.

I further certify that the improvements on the above described parcel on this date September 1, 2022, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements or any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted.



Julie Trout
Julie N. Trout
Professional Land Surveyor #38529