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Lisa Bailey
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Georgia Way

ZBA-22-50

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: 2021 Court St, Pueblo, CO 81003
APPLICANT: Jorge Amaya
PROPERTY OWNER: Jorge Amaya
YEAR BUILT: 1908
LEGAL DESCRIPTION: LOTS 29 + 30 BLK 13 FERD BARNDOLLAR + CO 2ND
ZONE DISTRICT: One and Two Family Residential (R-3) Zone District
PARCEL ID: 525114003
STRUCTURE SIZE: 1,890 sqft

REQUEST: Variance to reduce the side-yard setback from five feet (5') to zero feet (0') in an One and Two Family Residential (R-3) Zone District

SYNOPSIS OF REQUEST

2021 Court Street is a one thousand three hundred eighty (1,380 sqft) square foot single-family home constructed in 1908, on an eight thousand four hundred (8,400 sqft) square foot parcel. The home is in the Fred Barndollar and Co. Subdivision, west of Mineral Palace Park. The applicant, Mr. Amaya, is requesting to keep an (80 sqft) square foot shed in the north portion of the parcel. Site plans show that the shed encroaches five (5') feet into the side-yard setback. Therefore, a Variance is required keep this shed in its current location. In accordance with with section 17-5-34 "The Zoning Board of Appeals shall have power to authorize upon appeal in specific cases such variance from the terms of this Title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Title would result in unnecessary hardship."

ANALYSIS

The plans show an existing eight by ten feet (8' x 10') shed north of the of the principal structure behind the east face of the fence that separates the front and rear yards. . The structure does not have a permanent foundation and is painted to match the house with a similar pitched roof. Without a gutter system, fifty percent of the stormwater would be displaced directly onto the neighboring property, a situation that cannot be easily remedied without encroachment into the adjacent property. Upon analysis it is the Planning Department's opinion that ZBA-22-50 does not meet the threshold of section 17-5-34 and would recommend that structure be relocated a minimum of two feet away from the property line to prevent future unwanted cross lot drainage.

ZONING DISTRICT AND LAND USE

211 E D Street | Pueblo, Colorado 81003 | Tel: (719) 553-2259 | Fax: (719) 553-2611 | www.pueblo.us

Zone:		Developed with:
North	One and Two Family Residential (R-3) Zone District	Single-family Homes
East	One and Two Family Residential (R-3) Zone District	Single-family Homes
South	One and Two Family Residential (R-3) Zone District	Single-family Homes
West	Mixed Residential (R-4) Zone District	Apartments

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: Negative finding. Granting of the variance would reduce light and air in the form of new shaded areas on the adjacent property to the north; an adjacent neighbor contacted the Planning Department to express concern about the shed.

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: Neutral finding. This Variance will not wholly have a negative affect on general planning of the city however it would set a precedent, in terms of allowing a substantial encroachment into the side yard setback without a justifiable hardship or remedy.

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

Comments: Negative finding. Strict adherence to the code would prohibit shed from being placed in that location to begin with. The shed is not on a permanent foundation and could relocated to a more suitable location, which would not have a negative impact on the adjoining properties.

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 placement of the shed along the property line, is a personal and aesthetic choice of the applicant which does not constitute a hardship. While relocating the shed maybe inconvenient to the applicant the shed would still serve its proposed use without placing an undue burden on adjacent properties.

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 structure must modified to include gutters and downspouts in which all stormwater and debris is directed onto the subject property and no structural encroachment occurs on adjacent properties.

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-22-50	
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

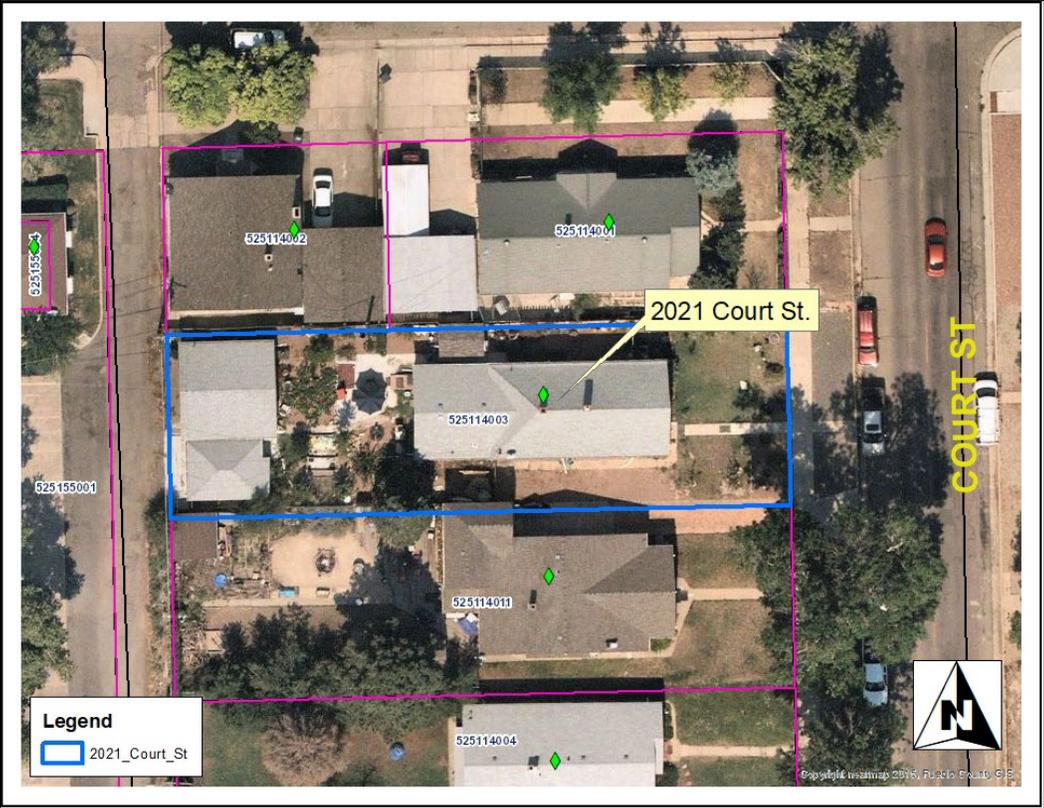


Exhibit D. Zoning Map

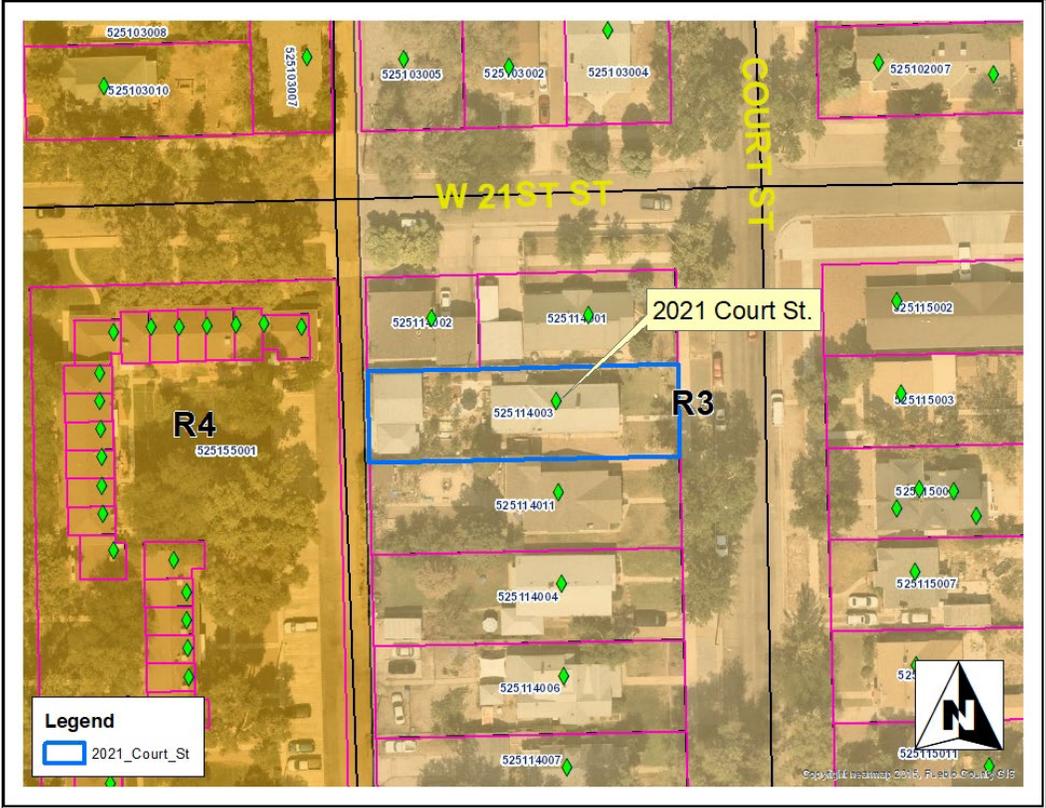


Exhibit E. Comprehensive Plan Map

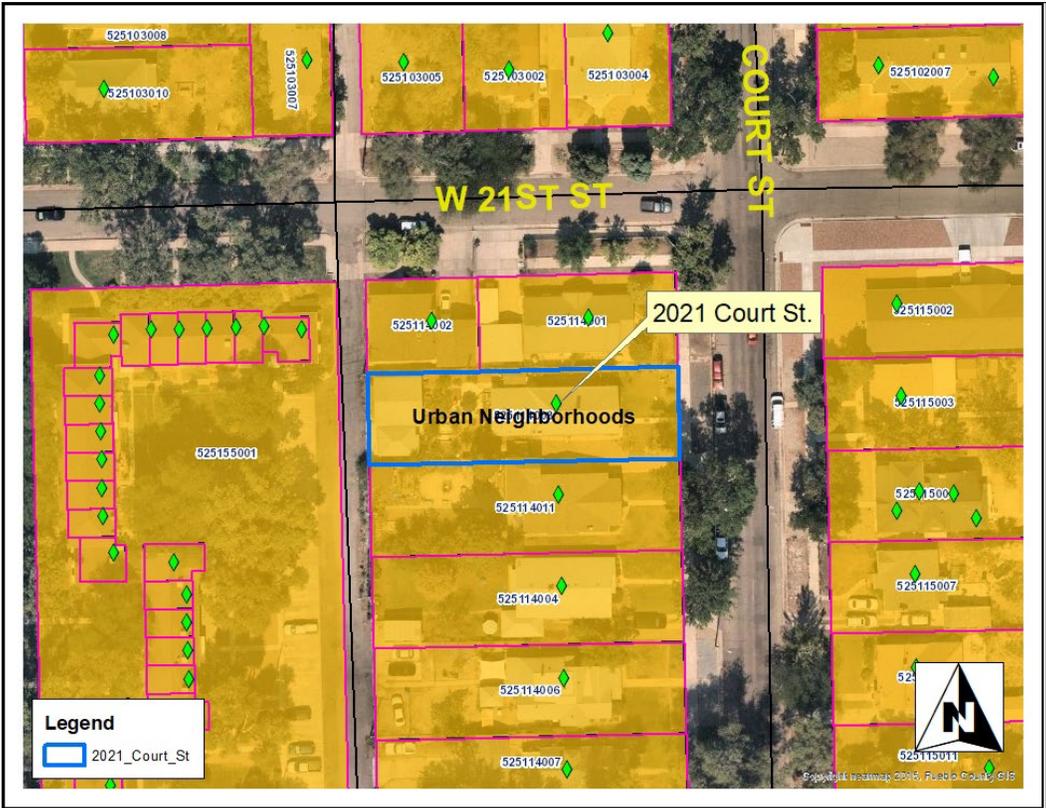


Exhibit F. Public Notice



Exhibit G. Site Photos



H. Application



11/09/2022

22-183

Zoning Board of Appeals - Special Use Permit & Variances

Status: Active

Date Created: Nov 9, 2022

Applicant

Jorge Amaya
jamaya315@gmail.com
2021 Court Place
Pueblo, Colorado 81002
9703023904

Primary Location

2021 COURT ST
PUEBLO, CO 81003

Owner:

AMAYA JORGE AMAYA CELESTE BRIANNE ,
2021 COURT ST PUEBLO , CO 81003-2528

Internal

ZBA Case Number

ZBA-22-50

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

--

Number of Postcards Sent

--

Cost of Newspaper Notice

--

Public Notice Costs

0

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:

--

Is a 1-year inspection required?

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Exhibit I. Supporting Documents

Attention: City of Pueblo, Planning & Community Development

From: Jorge Amaya, property owner

Re: Request for a variance on shed/property located at 2021 Court Street, Pueblo, Co 81003

Date: November 8, 2022

I am respectfully requesting a variance from the City of Pueblo which would allow the continuation of a small/medium sized shed that was constructed (from a kit) on-site, by employees representing Tuff Shed of Pueblo in April of 2021.

This shed has been on-site for over 19 months and until recently, we were unaware that it was in non-compliance with city ordinances.

The Tuff Shed representatives, before construction of the shed on our property, were asked by my wife and me, if a permit was required prior to the start of putting the kit together on our property. We were assured that no permit was required and when we asked about the location of the proposed shed, near the neighbor's fence line, we were again assured that everything was "ok".

So, it was built.

Until a City of Pueblo code enforcement officer arrived on our property regarding a complaint about a seedling tree encroaching the fence line on our north boundary-line, we had not heard any complaints or fielded any questions with the location of this smallish/medium size shed, in almost 20 months.

While the code enforcement officer was onsite, reviewing the location of the seedling tree, (which he stated was NOT encroaching the property line) he noticed the shed and advised us that this shed was out of compliance since it was too close to the property line. He suggested that we submit a variance for a review by the Zoning Board of Appeals. I also immediately removed the seedling tree to avoid any further disagreements with the neighbor.

Two days after this visit by the officer, this same neighbor approached my wife and assured her that she had "no problem with the shed" as it provided shade for her dog.

While the officer was present on the property, we shared our perplexation as the property lines on both sides of our property overlapped as well. For example: The house on the opposite side of our property (south end) is actually a few inches over our property line, which has not been a problem. The setback for our neighbor's house (on north end), I believe is also not in compliance with the established setback, but it hasn't been a problem.

The location of this shed does not affect the visibility of our property from either Court Street (on east end of property) nor from the alley (from west end of property).

Removing this shed, which is very heavy & cumbersome, would also require the takedown of our fence.

We are a retired elderly couple, existing on fixed incomes, my wife is disabled, and I am currently in treatment for heart failure. In addition, our house recently was flooded by a burst pipe underneath our house and updated estimates of damage are over \$150,000. My wife is staying in a hotel during this period as we are without heat or hot water (furnace, sump pump & water heater were destroyed) and I am staying in the house so that I can sleep sitting up in my recliner as I cannot breathe laying down.

At this current time, moving this shed would be discriminately expensive for us and physically impossible for us as we have no relatives living nearby who could assist us in moving this shed. (We have lived in Pueblo since Nov. 1 2020 and we do not know very many people.)

Please consider my request for a variance as we are currently overwhelmed with the current damage issues to our house, as well as the fact that the location of the shed has not been an issue in the 20 months of its existence.

Thank you.

Respectfully,

Jorge Amaya

Property owner at 2021 Court Street, Pueblo, Colorado 81003.

