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Steve Anselmo
Vice Chair



Lisa Bailey
Secretary

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Georgia Way

ZBA-22-54

Hearing Date: 1/24/2023

TO: City of Pueblo Zoning Board of Appeals
FROM: Bart Mikitowicz, Senior Planner
THROUGH: Scott Hobson, Land Use Administrative Official
LOCATION: 533 Cactus St, CO
APPLICANT: James Brinkman
PROPERTY OWNER: Derek Kristoffersen
YEAR BUILT: 1952
LEGAL DESCRIPTION: N 50 FT OF S 100 FT OF LOT 2 BLK 3 W D B LAND CO SUB NO 2
ZONE DISTRICT: One and Two Family (R-3) Zone district
PARCEL ID: 1504106005
STRUCTURE SIZE: 1,890 sqft

REQUEST:	Variance to reduce the side-yard setback for a proposed single-family residence by 1.7 ft from 5 ft to 3.3 ft and the rear-yard setback by 9.4 ft from 15 ft to 5.6 ft in a One and Two Family (R-3) Zone district
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SYNOPSIS OF REQUEST

533 Cactus Street consists of a 7,978 sq. ft. parcel containing a 960 sq. ft. detached garage located in the northwest corner of the parcel. The garage was originally constructed on the same parcel as 535 Cactus St., which is developed with a 1,448 sq. ft. single-family residence in 1952. The garage and residence were originally developed on the same parcel in Pueblo County, prior to this area being annexed into the city in 1946. The applicant, Mr. Brinkman, would like to convert the existing garage (533 Cactus St.) into a new single-family dwelling unit; and sell the two structures separately each as a single-family residence. The garage does not meet the side and rear yard setbacks for a single-family residence in a R-3 Zone District; therefore, a variance for the side and rear yard setbacks is necessary before the garage may be converted into a single-family residence.

ANALYSIS OF REQUEST

The site plan, provided by the applicant, show all the existing structures on both parcels. The specific Variance is for the garage to reduce the side-yard setback by 1.7 ft from 5 ft to 3.3 ft and the rear-yard setback by 9.4 ft from 15 ft to 5.6 ft. Mr. Brinkman will face some challenges in reconciling the lot and existing garage with §17-4-11 (single-family home placement standards) for the R-4 Zone district including; providing drive cuts, paved off-street parking, and bringing the sidewalk up to code. However, those elements of the plan will be carefully reviewed by associated City Departments when a building permit is requested for this project. Otherwise, housing redevelopment is generally supported by the City Planning Department; and there are no anticipated negative externalities through the granting of this variance.

ZONING DISTRICT AND LAND USE

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	Single Family Residential (R-1) Zone District	Single-family Homes

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	Regional Building has no objections to the zoning changes application, though the owner needs to contact PRBD regarding submittal requirements, especially the fire rating implications. -Roger Anderson
Fire Department	No comment
City Public Works Department	Please note to the applicant of 535 Cactus that this property was illegally subdivided and NO building permits will be issued for either property until a subdivision has been fully submitted, reviewed, approved and recorded. - Joe Martellaro
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. Granting of the variance would not reduce light and air in the form of new shaded areas on the adjacent property to the north, the structure is existing.

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 have a negative effect on general planning of the city or set a negative or unjustifiable precedent.

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

Comments: Neutral finding. Strict adherence of the code would prohibit the proposed redevelopment of the garage into a single-family residence from being completed. However, the existing garage could be demolished and a new conforming single-family home could be constructed on the lot.

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 placement of the garage was done as an accessory structure while it does not meet district setbacks its use is complimentary to the site. The redevelopment of this property into single-family housing is a discretionary choice of the owner. The applicant does refer to the city's need for affordable housing as an existential hardship.

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 garage, and site (parcel #1504106004) must be redeveloped in a matter which satisfies the requirements of §17-4-11 Single-family home placement standards for the R-4 Zone district.
2. "Please note to the applicant of 535 Cactus that this property was illegally subdivided and NO building permits will be issued for either property until a subdivision has been fully submitted, reviewed, approved and recorded." - Joe Martellaro
3. "Regional Building has no objections to the zoning changes application, though the owner needs to contact PRBD regarding submittal requirements, especially the fire rating implications." -Roger Anderson

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-22-54	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 1/24/2024
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

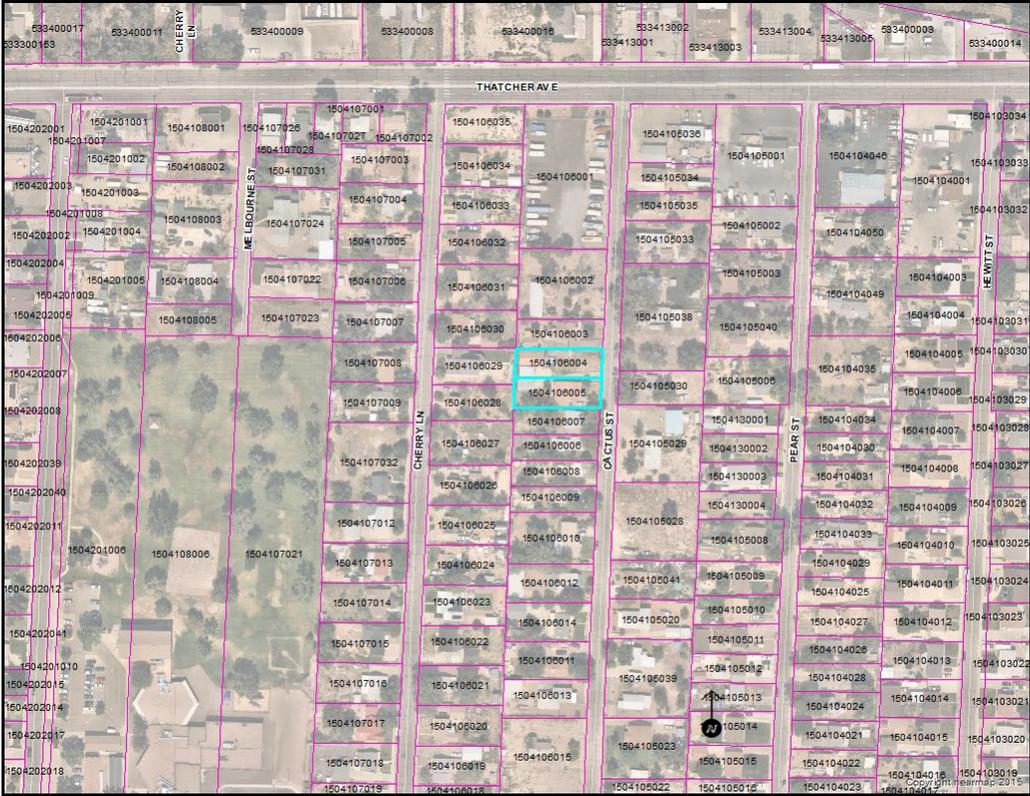


Exhibit C. Aerial Map

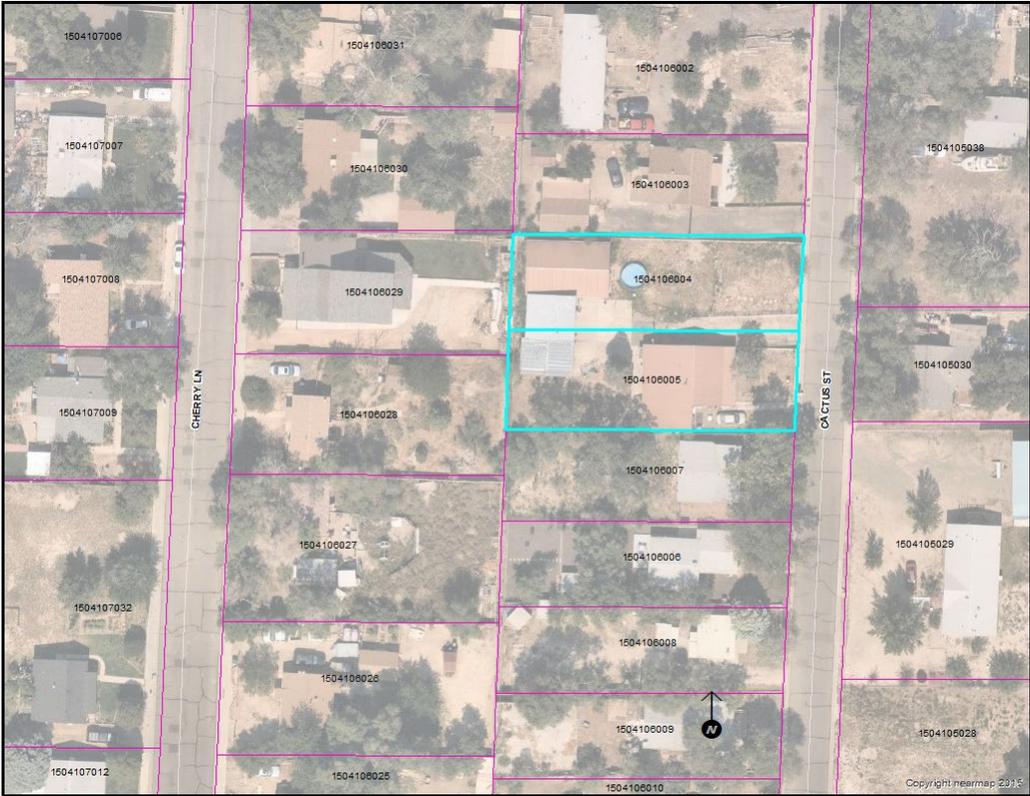


Exhibit D. Zoning Map



Exhibit E. Comprehensive Plan Map



Exhibit F. Public Notice



Exhibit G. Site Photos



H. Application



12/13/2022

22-200

Zoning Board of Appeals - Special Use Permit & Variances

Status: Active

Date Created: Dec 13, 2022

Applicant

JAMES BRINKMAN
jimpls@xpathinc.com
PO BOX 49742
COLORADO SPRINGS, CO 80949
7196612349

Primary Location

535 CACTUS ST Unit UNIT GARAGE
Unit UNIT GARAGE
PUEBLO, CO 81005

Owner:

WE BUY PROPERTIES LLC
113 S. INDIANA WAY GOLDEN , CO 80401

Additional Locations

535 CACTUS ST, PUEBLO CO 81005

Internal

ZBA Case Number
ZBA-22-54

Planner Assigned

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ZBA

Hearing Date
01/24/2023

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:

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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

