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## ZBA-23-11

Hearing Date: 4/25/2023

**TO:** City of Pueblo Zoning Board of Appeals  
**FROM:** Bart Mikitowicz, Senior Planner  
**THROUGH:** Scott Hobson, Land Use Administrative Official  
**LOCATION:** 815 E. 5th St, Pueblo, CO 81001  
**APPLICANT:** Manuel Torres  
**PROPERTY OWNER:** Manuel De Jesus Cavarrubias  
**YEAR BUILT:** 1904  
**LEGAL DESCRIPTION:** LOT 12 BLK 44 EAST PUEBLO  
**ZONE DISTRICT:** Mixed Residential (R-4) Zone District  
**PARCEL ID:** 431108014  
**LOT SIZE:** 1664

<b>REQUEST:</b>	Variance to reduce the side yard setback from five (5) feet to three (3) feet in a Mixed Residential (R-4) Zone District
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### SYNOPSIS OF REQUEST

The applicant would like to add a six hundred twelve (612) square foot addition to the third bedroom of a single-family residence in a Mixed Residential (R-4) Zone District. The proposed addition would encroach two (2) feet into the the side yard set back reducing it from five (5) feet to three (3). In accordance with 17-4-23(a)(3) of the Pueblo Municipal Code (PMC), the applicant is required to obtain a variance because the proposed addition would be built in the required side yard setback.

### ANALYSIS

The subject property is a one thousand six hundred sixty-four (1,664) square foot two story single-family home built in 1904. The principal structure is on a five thousand two hundred eighty (5,280) square foot lot, with a width of forty-four (44) feet, located in the East Pueblo Hight's Subdivision east of Fountain Creek. Reducing the required side-yard setback has potential to light and air to the neighboring property. The proposed addition is approximately 25-feet in height and will maintain a three-foot setback, which may reduce the natural light available on the adjacent property. Currently, there are approximately five single-family homes constructed within the five-foot side-yard setback on the north side of the 800-block of E. 5<sup>th</sup> Street; there is a prevailing pattern of homes built within the side-yard setback in this neighborhood. Additionally, because the subject parcel is approximately 44-feet wide, it is considered a legal non-conforming lot, which creates a hardship for development and redevelopment.

**ZONING DISTRICT AND LAND USE**

Zone:		Developed with:
North	Mixed Residential (R-4) Zone District	Single-family Homes
East	Mixed Residential (R-4) Zone District	Single-family Homes
South	Mixed Residential (R-4) Zone District	Single-family Homes
West	Mixed Residential (R-4) 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	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. Because the proposed structure is 25-feet in height, granting the variance may reduce light and air in the form of new shaded areas on the adjacent property to the west.**

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 the general planning of the city or set a negative or unjustifiable precedent. Currently, there are approximately five single-family homes constructed within the side-yard setback on the north side of the 800-block of E. 5<sup>th</sup> Street, which is the same side of the street as the subject property.**

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 the proposed home from being expanded to the desired size, however reducing the square footage to the addition would forgo the need for the variance.**

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. This is a non-conforming lot with a only a forty-four (44) foot frontage, the district minimum for the R-4 zone district is fifty (50) feet. Therefore, if the lot were conforming a Variance would not be necessary in this case.**

**PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION**

If the Board chooses to approve this Variance staff recommend Standard Permit Conditions 1 through 13, and the following conditions.

1. All gutters and downspouts must direct stormwater back onto the subject property.

**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**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>ZBA-23-11</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>4/25/2024</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. Site Map



Exhibit C. Aerial Map



Exhibit D. Zoning Map

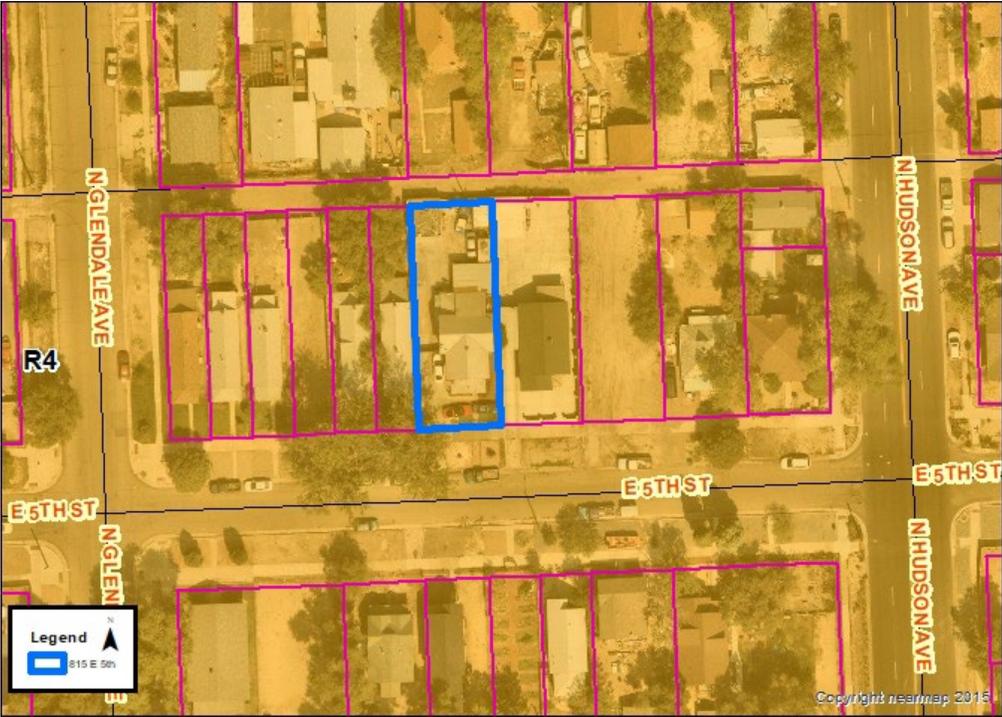
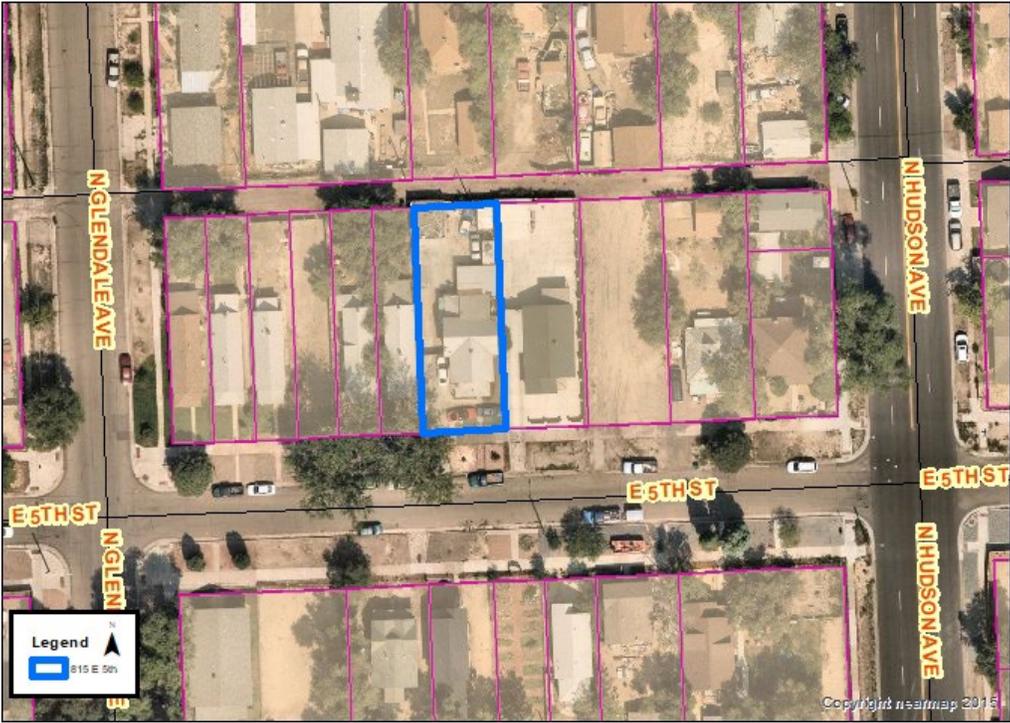


Exhibit E. Comprehensive Plan Map



**Exhibit F. Public Notice**



**Exhibit G. Site Photos**



### H. Application



03/28/2023

**23-59**

Zoning Board of Appeals - Special Use Permit & Variances

**Status:** Active

**Date Created:** Mar 28, 2023

**Applicant**

Manuel Torres  
manueltorres1971.43@gmail.com  
815 E 5th St  
Pueblo, Co 81001  
7196863716

**Primary Location**

815 E 5TH ST  
PUEBLO, CO 81001

**Owner:**

CAVARRUBIAS MANUEL DE JESUS T MORALES JUANA  
VALDOVINOS ,  
815 E 5TH ST PUEBLO , CO 81001-3724

**Internal**

**ZBA Case Number**  
ZBA-23-11

**Planner Assigned**  
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**ZBA**

**Hearing Date**  
04/25/2023

**Hearing Results**  
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**Board Conditions**  
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**Appeal Term End Date**  
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**Permit Completion Date**  
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**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:**  
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**Public notice zoning poster must be displayed BY:**  
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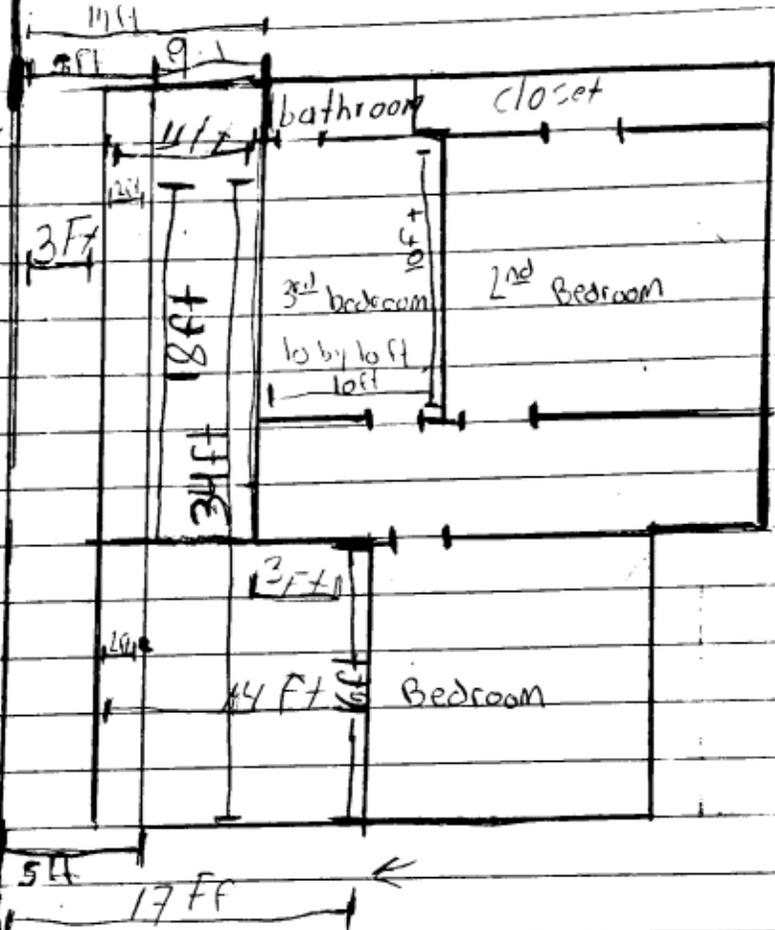
**Public Notice zoning poster must be displayed UNTIL:**  
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**Is a 1-year inspection required?**  
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Exhibit I. Supporting Documents

I want two foundations 3 1/2 ft long by 3 ft tall. One along my back and the other within 2 ft of the 5 ft from the property line. If of course, if possible.

I want to extend my 3rd room 11 ft. The height from the ground to the roof is 25 ft.



5th St