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Georgia Way

## ZBA-23-40

Hearing Date: October 24, 2023

**TO:** City of Pueblo Zoning Board of Appeals  
**FROM:** Jay-Michael Baker, Planner  
**THROUGH:** Scott Hobson, Land Use Administrative Official  
**LOCATION:** 2302 S Prairie Avenue  
**APPLICANT:** Gerald Bensko Jr.  
**PROPERTY OWNER:** Gerald Bensko Jr.  
**YEAR BUILT:** Unimproved Lot  
**LEGAL DESCRIPTION:** LOT 17 + W 272 FT OF LOT 18 BOCKMAN SUB EXC THE E 55 FT THEREOF BY WD910403 BK 2484 PG 876  
**ZONE DISTRICT:** Highway and Arterial Business (B-3) Zone District  
**PARCEL ID:** 1511318021 / Property Record ID: 1091331  
**LOT SIZE:** Approx. 33,823 Square Feet

**REQUEST:** A variance to reduce the east sideyard setback from fifteen (15) feet to five (5) feet and the eastern landscape buffer from 10-feet to five-feet in a Highway and Arterial (B-3) Zone District.

### REQUEST BACKGROUND

The applicant is requesting a variance for the east side-yard setback from fifteen (15) feet to five (5) feet and the required eastern landscape buffer from 10-feet to five feet. The lot is currently unimproved and does not have any structures, but the applicant intends to build a new commercial business at the location. The applicant has a Commercial case (C-23-12) open which is a plan to construct a new indoor self-storage facility, and office space. The commercial plans call for the construction of a primary storage building on the east side of the lot that spans 124 feet north to south. To best utilize the space, the setback and required landscape buffer would need to be reduced to accommodate the planned structures.

This setback and landscape buffer variance is being requested concurrently with a special use permit request to allow for self-storage in a B-3 Zone District.

### ANALYSIS

The lot is small, and the applicant has faced challenges trying to make the overall site work while still considering all the necessary requirements such as stormwater, parking, access, landscaping, and easements, therefore reducing the side-yard setback and landscape buffer to five (5) feet accommodates the planned use and all site requirements. The storage facility will be new construction on a previously unimproved lot. The proposed buildings will be single story and will follow the City's architectural standards, which require high quality building façade materials. Staff does not anticipate that the variance allowing a five-foot setback and landscape buffer will have a negative impact on the light and air of the adjacent property.

Upon reviewing the site plans and visiting the site, it does not appear the public rights-of-way or streets will be affected by the proposed five (5) foot setback. The proposed structure that will be adjacent to the setback does not have any doors on the back (east) side. Furthermore, the eastern storage structure will separate vehicular traffic and storage activity from the adjacent residential property.

The construction of a storage facility at this location fits the general “feel” of the neighborhood in that there is another storage facility directly south of the location also in a B-3 Zone District. The applicant has a concurrent ZBA case (ZBA-23-41) requesting a Special Use Permit for self-storage at this location.

**ZONING DISTRICT AND LAND USE**

Zone:		Developed with:
North	Single Family Residential (R-2) Zone District	Single-Family Homes
East	Single Family Residential (R-2) Zone District	Single-Family Homes
South	Highway and Arterial (B-3) Zone District	Steel City Storage, LLC
West	Mobile Home Residential (R-7) Zone District	Mobile 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**

Reviews of this overall project will be reflected on the Commercial case process, C-23-12).

Pueblo City/County Health	No comment
City Transportation	No comment
Pueblo Regional Building Department	No comment
Fire Department	No comment
City Public Works Department	Not reviewed. Please contact <a href="mailto:croy@pueblo.us">croy@pueblo.us</a> for status.
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. There is a pattern in the neighborhood of non-conforming setbacks specifically with the self-storage facility directly south of the property with a structure built up to a five (5) foot setback along the northern property line adjacent to single-family residences.**

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 setback and landscape buffer variance will not jeopardize the general planning of the City with respect to land use and 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: Neutral finding. The variance is necessary to construct the applicant's preferred self-storage use, other types of commercial development may be accommodated at this site without a variance. This property requires a special use permit for its proposed use of self-storage (concurrent request ZBA-23-41) as the B-3 Zone District allows for self-storage use, by review.**

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. According to the applicant, it is difficult to incorporate all development requirements such as stormwater, parking, access, and landscaping on the small lot without a side-yard setback and landscape buffer variance. Development sites along South Prairie Avenue have a variety of sizes and configurations, largely due to the area originally being developed in the County. Granting the variance for the side-yard setback will allow intuitive development meeting most of the standards of Title XVII and of other departments and agencies.**

#### **PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION**

If the Board chooses to approve this variance, staff recommends the following condition in addition to the Standard Permit Conditions 1 through 13.

1. Provide an opaque fence along the eastern property line with a minimum height of 6-feet.

#### **ATTACHMENTS**

- A. Standard Permit Conditions
- B. Aerial Map
- C. Zoning Map
- D. Comprehensive Plan Map
- E. Public Notice Photo
- F. Site Photographs
- G. Application

**Exhibit A. Standard Permit Conditions**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>10/24/2023</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>10/24/2024</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. Aerial Map



Exhibit C. Zoning Map

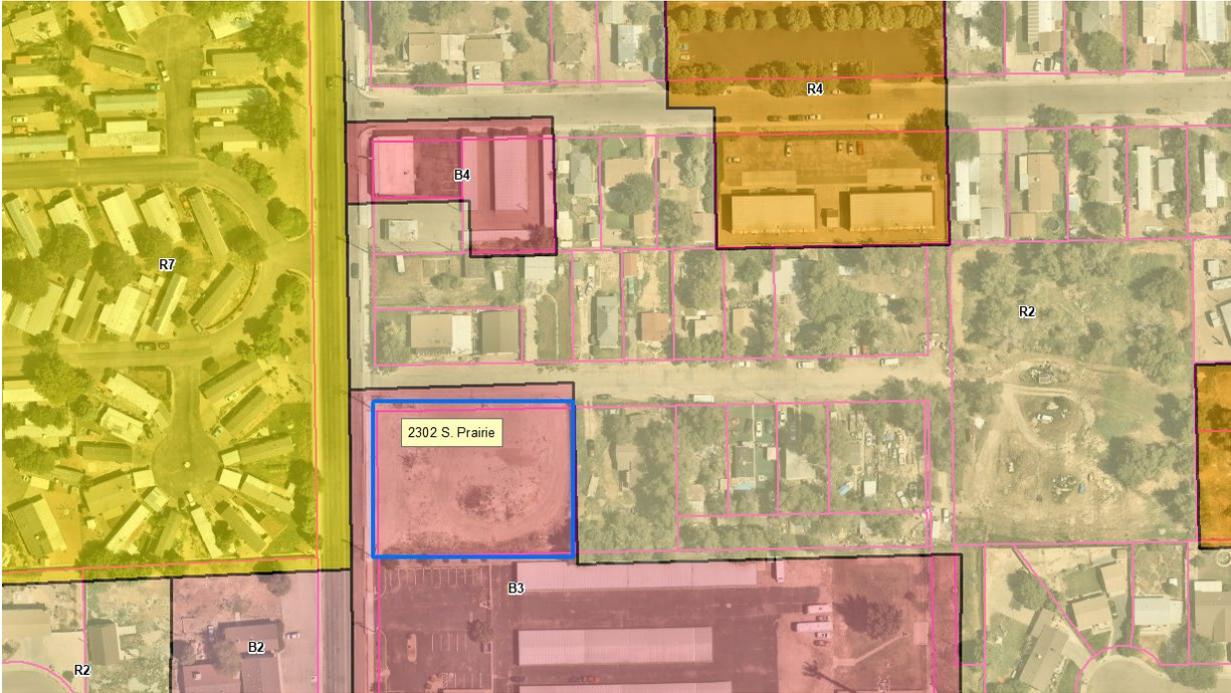


Exhibit D. Comprehensive Plan Map



Exhibit E. Public Notice



**Exhibit F. Site Photos**



**G. Application**

9/5/23, 4:44 PM

23-176



City of Pueblo PLACE

9/5/2023

**23-176**  
Zoning Board of Appeals -  
Special Use Permit &  
Variances  
Status: Active  
Submitted On: 9/1/2023

**Primary Location**  
2302 S PRAIRIE AVE  
PUEBLO, CO 81004  
**Owner**  
BENSKO GERALD JR  
PO BOX 3103 PUEBLO , CO  
81005-0103

**Applicant**  
 Jerry Bensko  
 719-553-8640  
 jbensko1@gmail.com  
 5203 Lynn Meadows Drive  
Pueblo, Colorado 81005

**Internal**

**ZBA Case Number**

ZBA-23-40

**Planner Assigned**

-

**Address Validation by GIS?**

**ZBA**

**Hearing Date**

-

**Hearing Results**

-

**Board Conditions**

**Appeal Term End Date**

-

**Permit Completion Date**

-

9/5/23, 4:44 PM

23-176

Specially Requested Hearing

**Public Notice**

Number of Posters

-

Number of Postcards Sent

-

Cost of Newspaper Notice

-

Public Notice Costs

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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**Scope of Work**

Type of Request\*

Variance

Variance Type\*

Setback

Provide a short description of the proposed request:\*

Requesting rear setback reduced to 5 feet.

9/5/23, 4:44 PM

23-176

What is the general use of the property\*

Commercial

Detailed explanation of the request as listed above. \*

Rear setback (east property boundary) reduced to 5 feet.

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

Justification of facts are detailed on the following page.

Are there any concurrent zoning requests?\*

No

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## Variance Justification of Facts

Give details to support how your variance won't (1) reduce light and air for nearby properties, (2) otherwise  bother nearby properties, or (3) lower neighborhood market values.\*

In my opinion reducing the rear setback should not cause any issues for the adjacent property. Currently the site is a vacant lot and once developed will increase neighborhood market values by eliminating negative elements associated with vacant lots. The proposed buildings are single story and will be in compliance with the City's architectural standards, which requires high quality building façade materials thus further improving property value and general aesthetics of the area.

Give details to support how your variance won't negatively affect the intended use of your property,  surrounding properties, public streets, and rights-of-way.\*

Right of ways and public streets are not affected by the proposed setback. Reducing the rear setback doesn't increase the volume of people that will be accessing the site for its proposed use. And there are no doors on the back side; thus, there will be no people coming/going back there. The building will act as a buffer between the residential and traffic/people on site.

Date	Activity
9/1/2023, 10:36:16 AM	Karen Elgin assigned approval step Fee Review to Karen Elgin on Record 23-176
9/1/2023, 10:37:21 AM	Karen Elgin approved approval step Fee Review on Record 23-176
9/5/2023, 4:24:49 PM	Cindy Capritta changed ZBA Case Number from "" to "ZBA-23-40" on Record 23-176

Timeline

Label	Activated	Completed	Assignee	Due Date
✓ Fee Review	9/1/2023, 10:12:53 AM	9/1/2023, 10:37:21 AM	Karen Elgin	9/2/2023
💰 Application Fee	9/1/2023, 10:37:22 AM	-	Jerry Bensko	-
✓ Intake Review	-	-	-	-
✓ Land Use Tech Review	-	-	-	-
✓ Case Assignment	-	-	-	-
✓ Staff Report and Agenda Distribution	-	-	-	-
✓ Public Notice	-	-	-	-
✓ ZBA Hearing Outcome	-	-	-	-
✓ Planning (Zoning) Initial Review of Submittal	-	-	-	-
✓ Permit Issuance	-	-	-	-
✓ Address Validation	-	-	-	-
💰 Public Notice Fee	-	-	Jerry Bensko	-
📄 Final Inspection	-	-	-	-
📄 Public Notice Memo	-	-	-	-

\*Staff note: Provided site plan does not accurately represent existing curb cut; see site photo below