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Vice Chair



Lisa Bailey
Secretary

Yvonne Lujan-Slak

Georgia Way

ZBA-23-48

Hearing Date: 1/23/2024

TO: City of Pueblo Zoning Board of Appeals
FROM: Bart Mikitowicz
THROUGH: Scott Hobson, Land Use Administrative Official
LOCATION: 1707 S. Pueblo Blvd
APPLICANT: Brynhildr Halsten
PROPERTY OWNER: Snibar LLC
YEAR BUILT: 1977
LEGAL DESCRIPTION: LOT 1 CRUM SUB
ZONE DISTRICT: Highway and Arterial Business (B-3) Zone District
PARCEL ID: 1509119001
LOT SIZE: 4895

REQUEST: Variances to reduce the front yard and second front yard setbacks established by the subdivision plat and B-3, Highway and Arterial Business Zone District standards. in a Highway and Arterial Business (B-3) Zone District

REQUEST BACKGROUND

The applicant is requesting a Variance to reduce a front yard setback established by the Crum Subdivision Filing No. 1 plat in a Highway and Arterial Business (B-3) Zone District and a variance to reduce the B-3 Zone District setbacks. Galloway & Company LLC is in the process of redeveloping the former Village Inn Restaurant at 1707 S Pueblo Blvd into a 2,824 sq. ft. Murphy USA gas station. Setbacks are established on the plat and are as follows; 5' side (north); 75' front (east); 5' side (west); 25' second front (south). Generally, setbacks are established by Title 17 of the PMC, it is uncertain why the setbacks were established on the subdivision plat; however, in cases like this when setbacks are established in the plat, the plat setbacks supersede the district standards. City Attorney, Robert Jagger determined that a variance is necessary to decrease the setbacks established by the subdivision plat. According to the Municipal Code, in a B-3, the required setbacks are as follows; 0' side (north), 25' front (east), 12.5' second-front (south), 0' (west). According to the proposed development plans, the fueling canopy will be located 15-feet from the eastern property line and 10 feet from the southern property line. In addition to the subdivision plat setback variance, a variance from the B-3 setback regulations is necessary to accommodate the proposed 15-foot front yard and 10-foot second front yard setback.

ANALYSIS OF REQUEST

The Crum Subdivision was platted in 1976. This subdivision established the setbacks as mentioned above, and the Village Inn Restaurant was constructed and operated as such until approximately 2019 at which time Snibar LLC acquired the property. The property owner wishes to repurpose the property as a Murphy USA gas station. Staff analysis of this request finds that the granting of it; will not reduce the light and air to adjacent properties; compromise the future planning of the city; and because of the setbacks established by the Crum Subdivision, this property does suffer from a unique and singular disadvantage which can be remedied through this Variance.

ZONING DISTRICT AND LAND USE

| | | |
|-------|---|-------------------------|
| Zone: | | Developed with: |
| North | Highway and Arterial (B-3) Zone District | Pueblo Christian Center |
| East | Single-Family Residential (R-1) Zone District | Single Family Residence |
| South | Highway and Arterial (B-3) Zone District | Sunflower Bank |
| West | Highway and Arterial (B-3) Zone District | Pueblo Athletic Club |

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. Granting the variance would not reduce light and air in the form of new shaded areas in the properties within 100 feet of the property.

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 would not jeopardize general planning of the city with respect to land use, streets, or highways.

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 to the code and subdivision plat setbacks would greatly reduce the developable area of the parcel, which is located adjacent to a local highway and intended for dense commercial development.

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 subject property was built in 1977 with a subdivision plat which included setbacks on the plat, this alone is a unique disadvantage; however, plans submitted show that the placement of the proposed structures would be in the setback area of the B-3 zone district and subsequently need a variance regardless of the plat.

PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

If the Board chooses to approve this variance, staff recommends the following staff condition and Standard Permit Conditions 1 through 13:

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-23-48 | |
|---|---|
| 1. | Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 1/23/2025 |
| 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





Exhibit H. Application

12/4/23, 3:59 PM

23-238

 City of Pueblo PLACE

12/4/2023

23-238
Zoning Board of Appeals -
Special Use Permit &
Variances
Status: Active
Submitted On: 12/4/2023

Primary Location
1707 S PUEBLO BLVD
PUEBLO, CO 81005
Owner
SNIBAR LLC C/O CYNTHIA Y
YOUNG ,
10940 S PARKER RD PMB
754 PARKER , CO 80134-7440

Applicant
 Galloway & Company LLC
 719-900-7220
 galloway-
citycs@gallowayus.com
 1155 Kelly Johnson Blvd
Suite 305
Colorado Springs, CO
80920

Internal

 **ZBA Case Number**

ZBA-23-48

 **Planner Assigned**

-

 **Address Validation by GIS?**

ZBA

 **Hearing Date**

01/23/2024

 **Hearing Results**

-

 **Board Conditions**

 **Appeal Term End Date**

-

 **Permit Completion Date**

-

Exhibit I. Supporting Documents

CRUM SUBDIVISION

FIRST FILING

LEGEND

- PUBLIC UTILITY EASEMENT
- SIDEWALK
- SET BACK LINE
- SET BACK
- POINTS TO BE ESTABLISHED TO MEET CITY OF PUEBLO REQUIREMENTS
- POINTS TO BE SET BY THE CITY ENGINEER TO MEET CITY OF PUEBLO REQUIREMENTS
- POINTS TO BE SET BY THE CITY ENGINEER TO MEET CITY OF PUEBLO REQUIREMENTS

DESCRIPTION

BEING ALL THAT PART OF THE CRUM SUBDIVISION, AND WALTER BASSETT, A PARTNER IN PARTNERSHIP OWNERSHIP BEING THE SEVERAL OWNERS OF THE FOLLOWING DESCRIBED LOTS: A TRACT OF LAND LOCATED IN THE S.W. 1/4 OF SECTION 8, T.41 S., R.103 W., OF THE 6th PRINCIPAL MERIDIAN, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 430 FEET WEST OF THE EAST ONE-QUARTER CORNER OF SAID SECTION 8;

- 1) THENCE S. 88° 43' 59" W., A DISTANCE OF 222.00 FEET;
- 2) THENCE N. 02° 03' 09" W., PARALLEL TO THE EAST LINE OF SAID SECTION 8, A DISTANCE OF 240.00 FEET;
- 3) THENCE S. 88° 43' 59" W., A DISTANCE OF 222.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 8;
- 4) THENCE S. 02° 03' 09" W., ALONG SAID EAST LINE OF SAID SECTION 8, A DISTANCE OF 240.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.22 ACRES, MORE OR LESS.

AND GRANTED THE FOREGOING DESCRIBED PROPERTY TO BE SURVEILED, PLATTED AND SUBDIVIDED INTO LOTS AND ALLEYS, AND WERE DESIGNATED HEREON (HEREINAFTER) FOR THE USE OF ALL PUBLIC UTILITIES, AND THE SAME SURVEILED, PLATTED AND SUBDIVIDED, DEMONSTRATED AND MARKED AS SHOWN ON THIS PLAN FOR THE PURPOSE OF CREATING A SUBDIVISION TO BE KNOWN AS CRUM SUBDIVISION, FIRST FILING.

ALL STREETS, ALLEYS AND EASEMENTS FOR ALL PUBLIC UTILITIES ARE HEREBY DEDICATED TO THE PUBLIC FOR PERPETUAL USE.

IN WITNESS WHEREOF, SAID CRUM AND WALTER BASSETT HEREBY SET THEIR HANDS AND AFFIX THEIR SEALS THIS 7th DAY OF JUNE, 1976 A.D.

Bill Crum
BY: Bill Crum
DEED GRANTOR

Walter Bassett
BY: Walter Bassett
WALTER BASSETT

328042

PLAT NO. 1857 FILE NO. 790

WATERS DEEDS

CITY OF COLORADO
STATE OF COLORADO
I, James H. Bassett, a NOTARY PUBLIC in and for the COUNTY of PUEBLO, STATE OF COLORADO, DO HEREBY CERTIFY THAT Bill Crum WHO IS PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSON WHO SIGNED THE FOREGOING INSTRUMENT APPROVED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THE EXECUTION THEREOF TO BE HIS FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES THEREIN SET FORTH AS THE DEED OF SAID PERSON.

WITNESS MY HAND AND APOSTOLIC SEAL THIS 7th DAY OF JUNE, 1976 A.D. James H. Bassett
MY COMMISSION EXPIRES June 21, 1977

WATERS DEEDS

CITY OF COLORADO
STATE OF COLORADO
I, Fred A. Bates, a NOTARY PUBLIC in and for the COUNTY of PUEBLO, STATE OF COLORADO, DO HEREBY CERTIFY THAT Walter Bassett WHO IS PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSON WHO SIGNED THE FOREGOING INSTRUMENT APPROVED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THE EXECUTION THEREOF TO BE HIS FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES THEREIN SET FORTH AS THE DEED OF SAID PERSON.

WITNESS MY HAND AND APOSTOLIC SEAL THIS 7th DAY OF JUNE, 1976 A.D. Fred A. Bates
MY COMMISSION EXPIRES June 21, 1977

CITY ENGINEER CERTIFICATION

THIS IS TO CERTIFY THAT THE SUBDIVISION HAS COMPLIED WITH ALTERNATIVE A.D. 4 OF TITLE 10-4 (PLATTING) 1976 CODE OF ORDINANCES, CITY OF PUEBLO, COUNTY OF PUEBLO, STATE OF COLORADO.

DATE June 9, 1976

Paul L. Adams
REGISTERED LAND SURVEYOR AND ENGINEER
(SEAL)
PUEBLO, COLORADO

CLAIMING AND ZONING COMMISSION CERTIFICATION

THIS IS TO CERTIFY THAT THE SUBDIVISION HAS COMPLIED WITH ALTERNATIVE A.D. 4 OF TITLE 10-4 (PLATTING) 1976 CODE OF ORDINANCES, CITY OF PUEBLO, COUNTY OF PUEBLO, STATE OF COLORADO.

DATE 6-9, 1976

James E. Peltch
CITY ENGINEER

CITY APPROVAL

APPROVED BY THE CITY COUNCIL OF PUEBLO, COLORADO BY ORDINANCE NO. 4213

THIS IS TO CERTIFY THAT THE PLAN OF CRUM SUBDIVISION HAS BEEN APPROVED FOR RECORDING OFFICE OF THE COUNTY CLERK OF PUEBLO COUNTY, COLORADO.

DATE 6-6, 1976

John A. [Signature]
CITY CLERK



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: Snibar LLC C/O Cynthia Y Young | | Company: Snibar LLC C/O Cynthia Y Young | |
| Address: 10940 S Parker Road #514 | | | |
| City: Parker | | State: Colorado | Zip: 80138 |
| Phone: | | Email: | |
| Applicant: | | | |
| Name: Brynhildr Halsten | | Company: Galloway & Company LLC | |
| Phone: 719-900-7220 | | Email: brynhildrhalsten@gallowayus.com | |
| Property Address: 1707 S Pueblo Blvd Pueblo CO 81005 | | | |

I, Cynthia Y Young, hereby state that I am the owner of record of the property located at 1707 S Pueblo Blvd Pueblo CO 81005, Pueblo, Colorado, and further acknowledge that by signing this affidavit I authorize the submission of an application for a Commercial Plans & Variance at said location.
(application type)

Digitally signed by:

11/3/2023

Signature of Property Owner

Date

