

Mike Castellucci
Chair

Steve Anselmo
Vice Chair



Lisa Bailey
Secretary

Yvonne Lujan-Slak

Georgia Way

ZBA-24-03

Hearing Date: 2/27/2024

TO:	City of Pueblo Zoning Board of Appeals
FROM:	Bart Mikitowicz
THROUGH:	Scott Hobson, Land Use Administrative Official
LOCATION:	706 Pineda Ct, Pueblo, CO 81001
APPLICANT:	Tony Mihelich
PROPERTY OWNER:	Legends Subdivision LLC
YEAR BUILT:	N/A
LEGAL DESCRIPTION:	LOT 37 BLK 3 RIVERS RUN SUBDIVISION
ZONE DISTRICT:	Single-family Residential (R-2) Zone District
PARCEL ID:	432321018
LOT SIZE:	5,663
REQUEST:	Variance to reduce the front yard setback in a Single-family Residential (R-2) Zone District

BACKGROUND AND ANALYSIS

706 Pineda Ct is a proposed 1,820 sq. ft. future residence located in the Rivers Run Subdivision; north of the Arkansas River. The lot itself is a 5,663 sq. ft. parcel located on a cul-de-sac. The rear yard is predominantly a drainage easement with a steep downward grade of approximately (66%) from the rear of the principal structure to the edge of the eastern property line. The depth of the north and south side property lines (southern line, 93'; northern line, 86') could be viewed as a hardship as both the adjacent properties to the south and north have a greater depth which adds flexibility to their development, specifically in meeting the setback requirements. The district standard for the front yard setback in an R-2 zone district is 25'; site plans indicate that the placement of the proposed house meets both side and rear setback requirements but encroaches into the front yard setback 8.6' (16.36' setback) at the northern foremost corner and 6.9' (18.15' setback) at the southern foremost corner. To proceed with construction, the applicant is requesting a Variance to reduce the front yard setback in a Single-family Residential (R-2) Zone District.

After reviewing the application staff feels that the light and air will not be reduced on adjacent properties a reduction in setback may have a minimal effect on the public right-of-way. A reduced front-yard setback for 706 Pineda, will create a variation in the uniform aesthetics of setbacks adjacent to the cul-de-sac; however, the overall planning of the city will not be negatively affected by the approval of this variance. The building design could be modified to fit the parcel better; however, that could add a significant financial burden to the developer. Finally, the shallow depth of the lot, and cul-de-sac layout creates a hardship when trying to place certain models of homes in this subdivision.

ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Single-Family Residential (R-2) District	Single-Family Homes
East	Single-Family Residential (R-2) District	Single-Family Homes
South	Single-Family Residential (R-2) District	Single-Family Homes
West	Single-Family Residential (R-2) 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: Affirmative finding. The encroachment into the front yard setback will not reduce light and air to adjacent properties.

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 hinder the residential land use of the area or impact streets.

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

Comments: Neutral finding. The form of the principal structure could be modified to better fit the shape of the lot avoiding the need for a Variance; however, this could pose a significant financial burden for the developer.

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. While the lot size meets the prescribed district minimum of 5,000 sqft (5,663 sqft), the lot depth is significantly more shallow (less than 100 feet) than the adjacent properties to the north and south.

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:

ATTACHMENTS

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

Exhibit A. Standard Permit Conditions

Standard Permit Conditions Date of Issuance of Permit: 2/27/2024	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 2/27/2025
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. Aerial Map

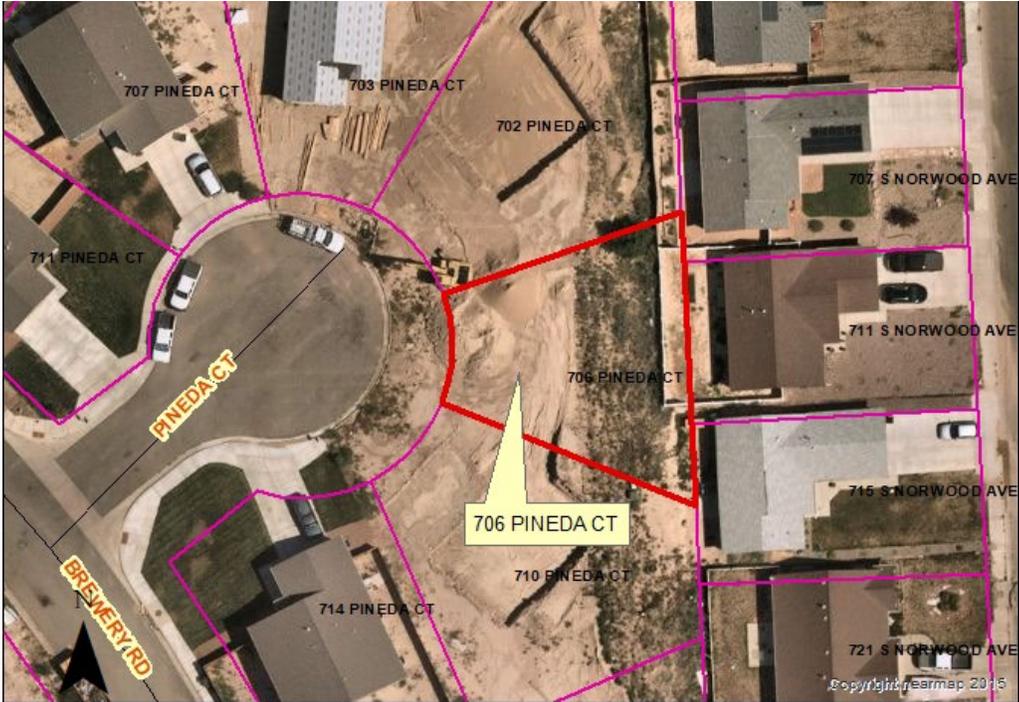


Exhibit C. Zoning Map

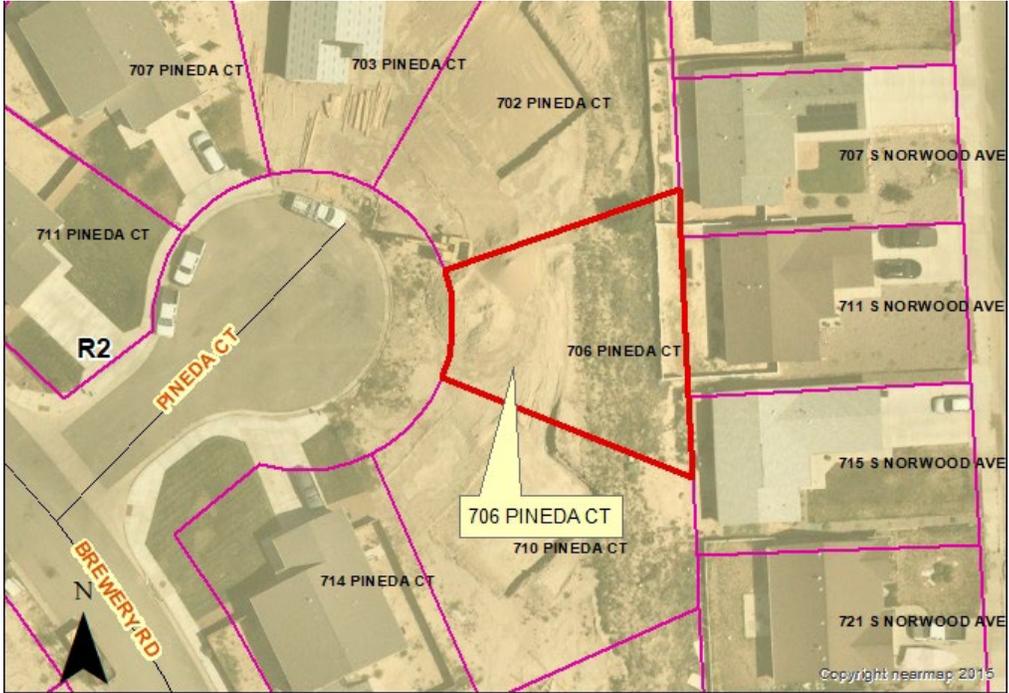


Exhibit D. Comprehensive Plan Map



Exhibit E. Public Notice



Exhibit F. Site Photos



Exhibit G. Application

1/17/24, 9:57 AM

24-18



City of Pueblo PLACE

1/17/2024

24-18
Zoning Board of Appeals -
Special Use Permit &
Variances
Status: Active
Submitted On: 1/17/2024

Primary Location
706 PINEDA CT
PUEBLO, CO 81001
Owner
LEGENDS SUBDIVISION LLC
6375 S HIGHLAND DR 2441 S
Prairie Ave Pueblo, CO 81005

Applicant
Tony Mihelich
719-696-8274
tony@dkheng.com
2441 S Prairie Ave
Pueblo, CO 81005

Internal

ZBA Case Number

ZBA-24-03

Planner Assigned

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Address Validation by GIS?

ZBA

Hearing Date

02/27/2024

Hearing Results

-

Board Conditions

Appeal Term End Date

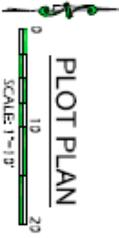
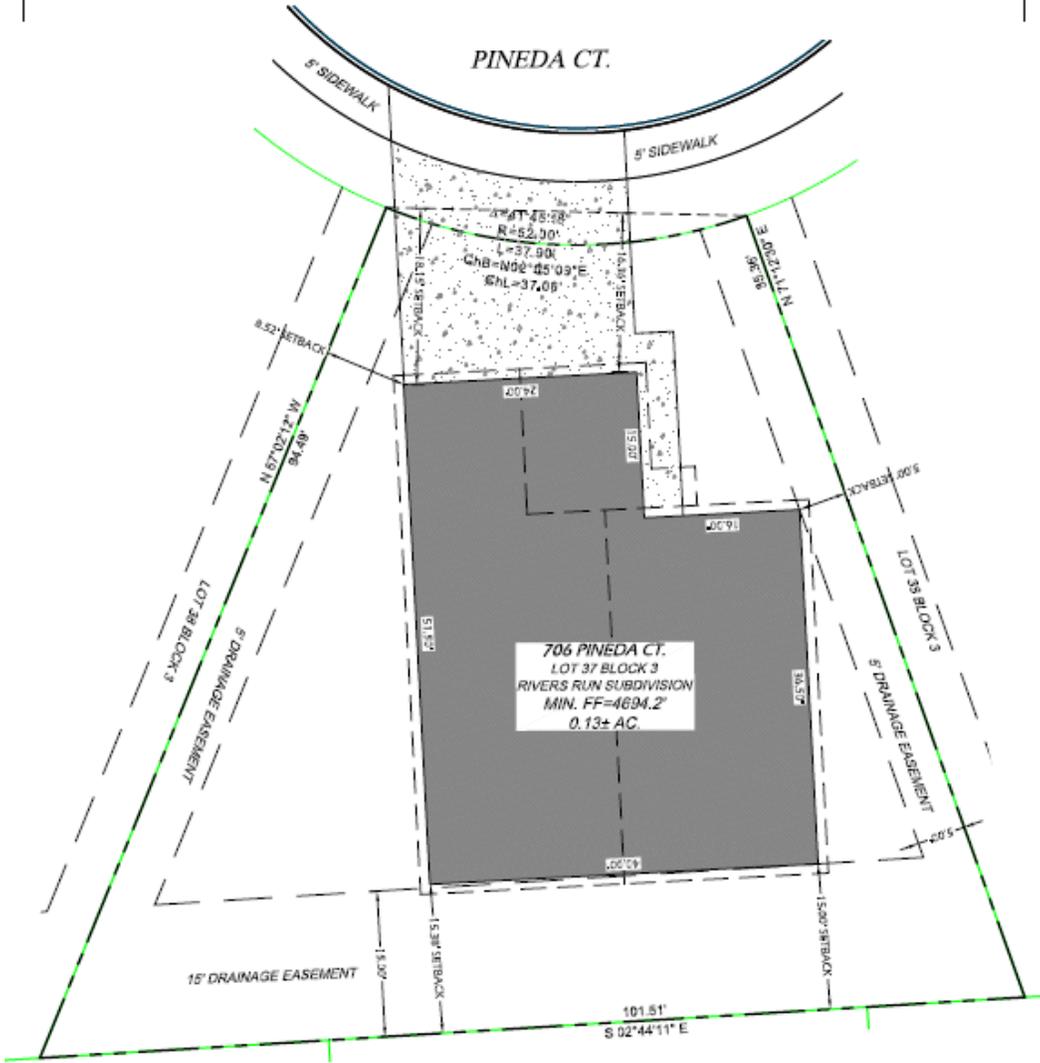
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Permit Completion Date

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H. Supporting Documents

PLOT DATE: 1/17/2024 PLOTTED BY: Tony



SITE PLAN
C0

PROJECT NUMBER: 2024-001 DRAWN BY: TONY DATE: 1/17/2024	<p align="center">STONEBROOK CONSTRUCTION WILLOW MODEL</p> <p align="center">706 Pineda Ct. Pueblo, CO 81004</p> <p align="center">PROJECT #442321018 LOT 37, BLOCK 3, RIVERS RUN SUBDIVISION</p>	<p align="center">2024 © Stonebrook Construction ALL RIGHTS RESERVED TEL: 719.553.2259 WWW.STONEBROOKCONSTRUCTION.COM</p> 
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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: Aaron Haaga	Company: Legends Subdivision, LLC	
Address: 6375 S HIGHLAND DR		
City: Salt Lake City	State: UT	Zip: 84121
Phone: 801-706-5919	Email: aaron@stonebrook.com	
Applicant:		
Name: Tony Mihelich	Company: DKHorn Engineering & Design, Inc	
Phone: 719-696-8274	Email: tony@dkheng.com	
Property Address: 706 Pineda Ct, Pueblo, CO 81001		

I, Aaron Haaga, hereby state that I am the owner of record of the property located at 706 Pineda Ct, Pueblo, CO 81001, Pueblo, Colorado, and further acknowledge that by signing this affidavit I authorize the submission of an application for a Setback Variance at said location.
(application type)


 Signature of Property Owner 1/7/24
 Date