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Steve Anselmo  
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Yvonne Lujan-Slak

Georgia Way

## ZBA-25-06

Hearing Date: 1/28/2025

**TO:** City of Pueblo Zoning Board of Appeals  
**FROM:** Hannah Prinzi, Planner  
**THROUGH:** Scott Hobson, Land Use Administrative Official  
**LOCATION:** 2602 Ontario St  
**APPLICANT:** Edwardo Martinez  
**PROPERTY OWNER:** Edwardo Martinez  
**YEAR BUILT:** 1973  
**LEGAL DESCRIPTION:** Lot 12 BLK 17 Mahoney Sub 3rd  
**ZONE DISTRICT:** One and Two-Family Residential (R-3) Zone District  
**PARCEL ID:** 1514214085  
**LOT SIZE:** 4791 sq. ft.

**REQUEST:** Variance to reduce the side-yard setbacks requirements in a One and Two-Family Residential (R-3) Zone District to bring an existing 14' x 23' attached garage into compliance.

### BACKGROUND

The applicant is requesting a variance to reduce the side-yard setback requirements at 2602 Ontario St from 5' to approximately 28" to bring an existing 14' x 23' attached garage into compliance. The subject property is a 0.11-acre parcel in a One- and Two-Family Residential (R-3) Zone District generally southwest of Lake Minnequa. The property is developed with a 644 sq. ft. stucco, single-family residence built in 1954, two sheds in the backyard, and a 14' x 23' attached garage that appears to have been constructed between 2017 and 2018 without a building permit. The applicant applied for a building permit for the attached garage at the end of December 2024 and was notified they need a setback variance prior to proceeding with the building permit request.

The subject property was platted in 1954 with a 50' frontage along Ontario St. While the garage sits against the white fence in the front yard, it appears that this fence is short of the actual property line. Staff measured the distance between the white fences on the south and north side of the property, and the distance was only 48' – 2' short of the platted lot. The applicant measured the distance from the garage to the wooden fence in the back yard, which was approximately 28'. This measurement appears to be a more accurate representation of where the property line is and therefore reflects the exact variance being requested.

### REQUEST AND ANALYSIS

The exterior of the garage is clad with vertical siding and is painted white and beige to match the colors of the house. Section 17-4-23, (b), of the Pueblo Municipal Code requires attached accessory structures to be architecturally compatible with the residence. Architectural compatibility is defined within the Municipal Code as "construction of similar material and details, which shall include similar-siding material and color, and similar roofing material, color and pitch." According to the code, the Zoning Board of Appeals may only grant a variance from architectural compatibility for greenhouse structures and agricultural buildings, Section 17-4-23, (c), (12). The exterior of the residence is stucco; therefore, staff recommends the proposed garage be stuccoed as a condition of granting the variance. There are also gutters installed on the garage to keep drainage on the property, and it appears that the gutters are within the property line. Regarding land use, the garage provides

off-street parking and storage space, supporting the principle residential use of the property. If the garage were to move, it would reduce its effectiveness in providing off-street parking with access to the street. It also could not move without also moving the shed behind it. The property itself does not suffer a unique disadvantage, but there is a prevailing pattern of having attached carports that extend into the side-yard setbacks. There are at least six properties in the vicinity that have an attached carport south of the principal structure: 2502 Ontario St., 2506 Ontario St., 2514 Ontario St., 2526 Ontario St., 2610 Ontario St., and 2614 Ontario St. The garage requires a building permit if the variance request is approved. It will be the responsibility of the applicant to work with Pueblo Regional Building Department to comply with fire safety standards (See PRBD’s comment and staff condition 1 below).

**ZONE DISTRICT AND LAND USE**

Zone:		Developed with:
North	R-3, One- and Two-Family Residential Zone District	Single-Family Homes
East	R-4, Mixed Residential Zone District	Single-Family Homes
South	R-3, One- and Two-Family Residential Zone District	Single-Family Homes
West	R-3, One- and Two-Family Residential 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	Routing, which has already been issued, see 24-16755, permits, and possible review of fire separation details are required. Minimum setback measured from property lines for non-fire rated structure is 5 feet. If less than that required distance, a min. 1 hour fire rating is required for walls and projections per IRC Table 302.1(1).
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: Neutral finding.** The garage may reduce light and air to the north side of the residence located south of the subject property. However, the residence located south of the subject property does not have windows on the northern side of the residence. Additionally, the garage has gutters installed to keep drainage on the subject property. These details mitigate potential negative effects 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.** The garage provides off-street parking and storage space, supporting the principle residential use of the property.

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

**Comments: Neutral finding.** Similar properties in the neighborhood have constructed garages and carports in the rear-portion of the lot behind the residences.

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: Negative finding.** The property does not suffer a unique disadvantage uncommon to other properties in the district. It is a rectangular lot with a 50' width and 100' length, which is common to other lots in residential zone districts.

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

If the Board makes the necessary findings of fact to approve this variance, staff recommends Standard Permit Conditions 1 through 13 and the following staff conditions:

1. The applicant must work with Pueblo Regional Building Department to address fire safety at the time of pulling a building permit.
2. The garage façade must be stuccoed to match the attached single-family residence.

#### **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. Site Plan

**Exhibit A. Standard Permit Conditions**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>1/28/2025</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>1/28/2026</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

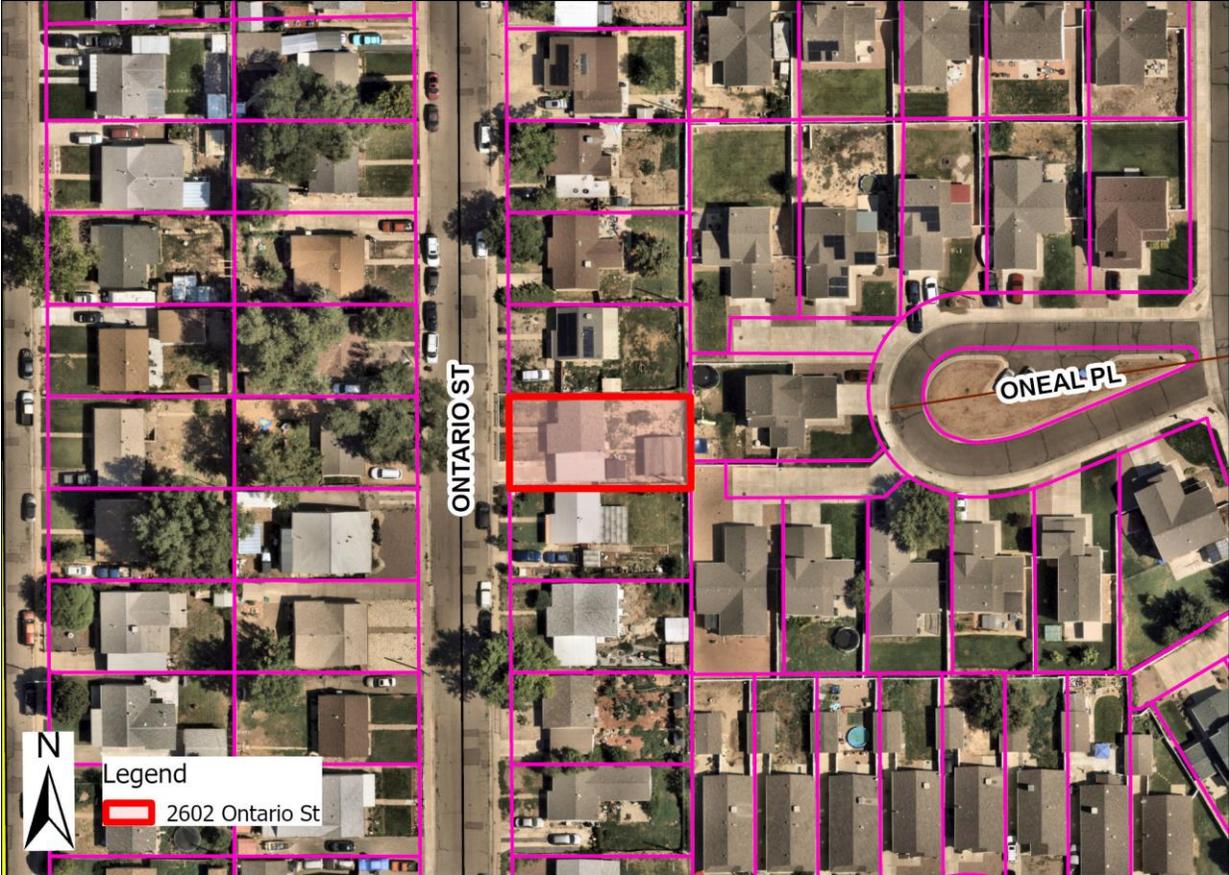
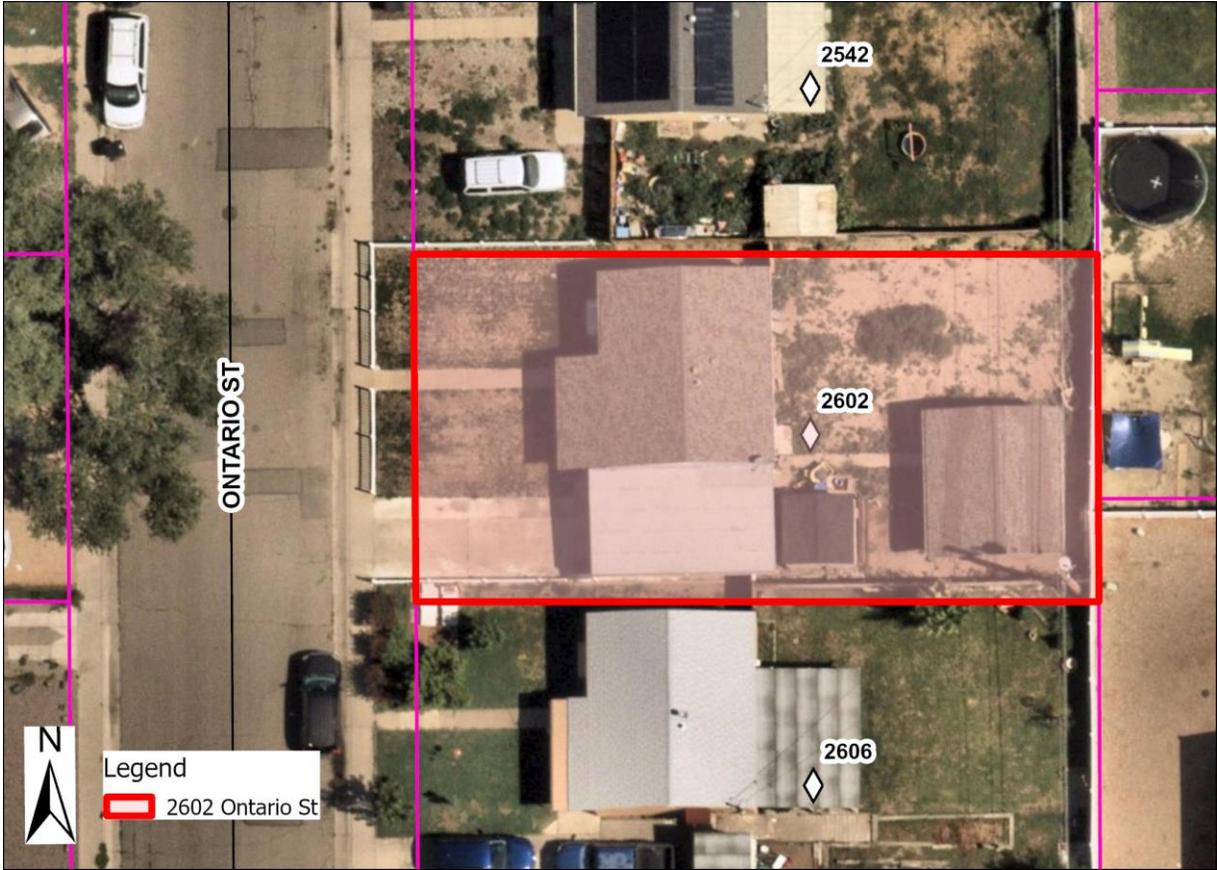


Exhibit C. Zoning Map

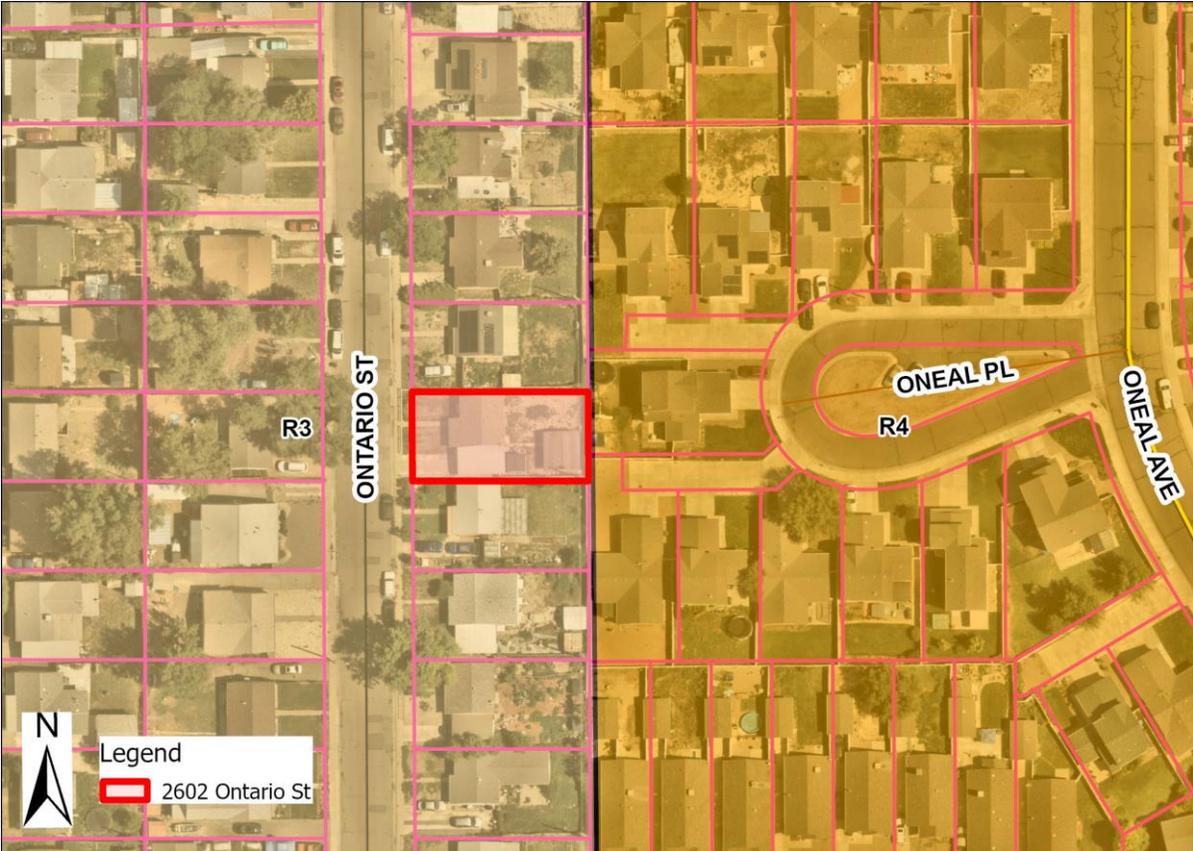
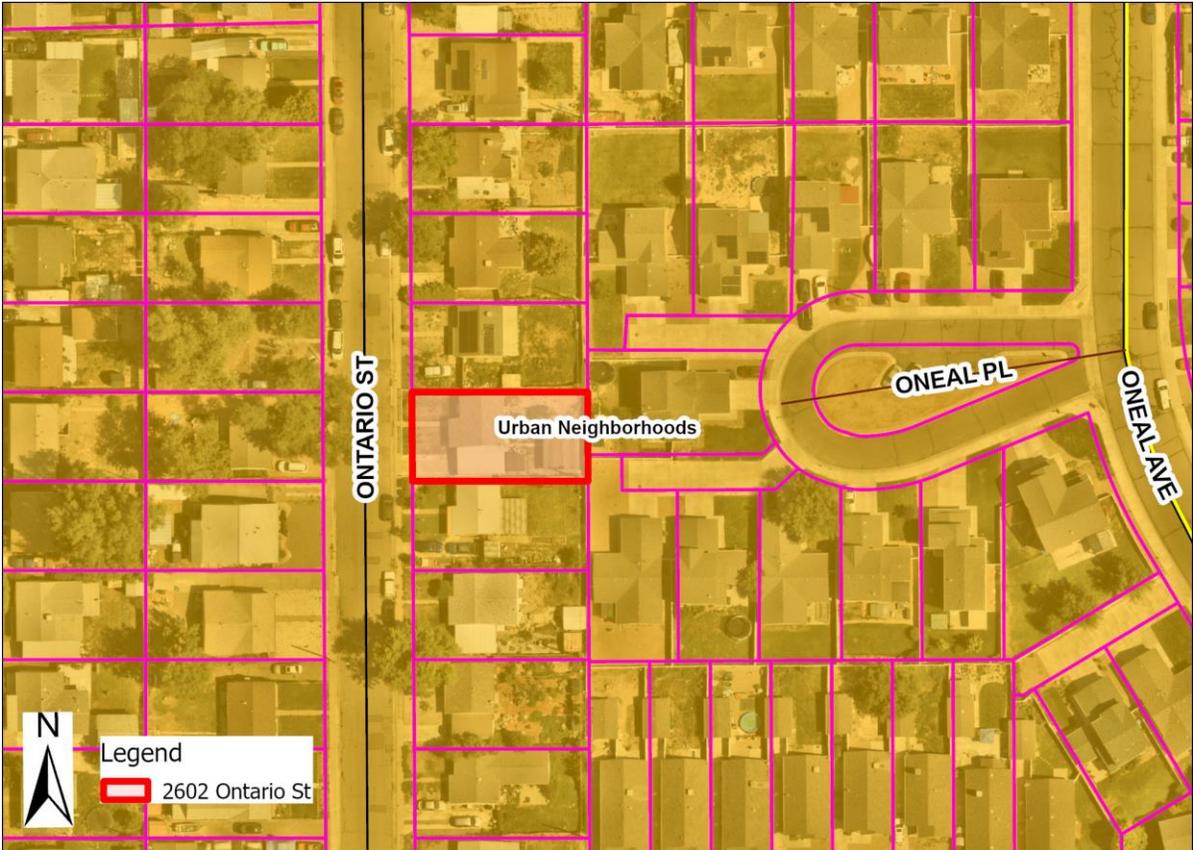


Exhibit D. Comprehensive Plan Map



**Exhibit E. Public Notice**



**Exhibit F. Site Photos**



Exhibit G. Application

12/30/24, 2:23 PM

24-239



December 30, 2024

**24-239**  
Zoning Board of Appeals  
- Special Use Permit &  
Variances  
Status: Active  
Submitted On: 12/30/2024

**Primary Location**  
2602 ONTARIO ST  
PUEBLO, CO 81004  
**Owner**  
MARTINEZ EDUARDO  
2602 ONTARIO ST PUEBLO , CO  
81004-4135

**Applicant**  
Edwardo Martinez  
719-568-3795  
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2602 Ontario Street  
Pueblo, Colorado 81004

H. Site Plan

