

Mike Castellucci  
Chair

Steve Anselmo  
Vice Chair



Lisa Bailey  
Secretary

Yvonne Lujan-Slak

Georgia Way

## ZBA-25-08

Hearing Date: 1/28/2025

**TO:** City of Pueblo Zoning Board of Appeals  
**FROM:** Mikaylin Hackley  
**THROUGH:** Scott Hobson, Land Use Administrative Official  
**LOCATION:** 223 Creston Dr  
**APPLICANT:** Josh Wooten  
**PROPERTY OWNER:** Josh Wooten  
**YEAR BUILT:** 1946  
**LEGAL DESCRIPTION:** LOT 3 BLK 5 LEACHS WESTVIEW ADD  
**ZONE DISTRICT:** Single-Family Residential (R-2) Zone District  
**PARCEL ID:** 1502223003  
**LOT SIZE:** 7665

<b>REQUEST:</b>	Variance to reduce the side-yard setbacks requirements in a Single-Family Residential (R-2) Zone District
-----------------	---

### BACKGROUND

The applicant is requesting a variance to reduce the required 5' side setback to 0' in order to accommodate an existing 10' by 16' accessory structure on the eastern property line of the subject property. Aerial imagery shows that the shed was placed sometime between August 2018 and July of 2019. No building permit would have been required for this project as the square footage was smaller than 200 sq ft, but setbacks and architectural compatibility standards are still required even for accessory structures that do not require building permits. The applicant attests in their application that the structure is a shed used for storage only. Code enforcement issued a citation in January of 2024 that included the non-compliant shed, and staff received the setback variance application on January 2, 2025.

### REQUEST AND ANALYSIS

Staff finds that the structure, as-is would, meet architectural compatibility requirements as the siding, roofing colors, and roofing material match the existing home. Additionally, there is no other viable location on the property to place a structure of this size as it already abuts the home and much of the space in the rear yard is taken up by an in-ground swimming pool. However, these issues do not necessarily amount to a unique hardship as created by land use code regulations.

Should this variance be approved, it will be the applicant's responsibility to follow up with Regional Building to comply with the 1-hour fire-rated wall requirement as described in the comment from Regional Building below. It will also be the responsibility of the applicant to resolve any outstanding permitting issues and code enforcement violations that are not directly related to the distance of the accessory structure from the eastern property line as noted in Code Enforcement's comment below. It also appears that stormwater runoff is currently flowing into the neighboring lot; staff suggests that the board condition the property owner to construct stormwater mitigation improvements, intended to direct stormwater from the shed roof onto the subject property. All stormwater improvements must be located on the subject property.

**ZONE 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	Single-Family Residential (R-2) Zone District	Single-family homes
West	Single-Family Residential (R-2) 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	“Regional Building cannot approve as submitted: this address shows an existing complaint, 1890153, for converting a carport to a garage without permits and an open permit with no inspections, 1806430, for an exterior remodel. Regarding the shed in question, 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)” Rodger Anderson, Plans Examiner
Fire Department	No comment
City Public Works Department	No comment
City Stormwater Department	No comment
City Code Enforcement	“Complaint received by CE which included problems with the shed used as a dwelling unit as well as its location within inches of the property line. This displays that there is a neighborhood issue resulting in complaints to the City” Karen Wilson, Code Enforcement Manager
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. The accessory structure matches the principal structure in siding and roofing material and color, so it does not constitute a visual nuisance or lower neighborhood market values. However, it’s 11’ height at 0’ setback may block light to the property directly to the east and presents a potential safety issue in the case of a fire, thus staff’s condition that the structure be brought up to Building Code fire ratings. Additionally, the roof pitch and lack of gutters may direct stormwater onto the neighboring property, and cross-lot drainage is prohibited. Thus, staff conditions that, should the variance be approved, the property owner must devise a mechanism to keep stormwater from entering the neighboring property. All**

**improvements, intended to mitigate stormwater, originating from the shed roof, must be located on the subject 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. The structure is inaccessible by vehicles so the right-of-way will not be affected.**

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

**Comments: Neutral finding. Though the subject lot is of a standard size for the area, there are no other locations of the lot that could accommodate a storage shed of this size. It is also directly against the home, so it could not be moved further away from the property line while remaining on the side of the house.**

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 lot size and shape are standard for the area, so there is no unique disadvantage in regard to land use.**

#### **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:

1. The applicant must comply with Building Code and upgrade the eastern-most wall of the structure to be 1-hour fire-rating as determined by Pueblo Regional Building Department.
2. The property owner must devise a mechanism to keep stormwater from entering the neighboring property. All improvements intended to mitigate stormwater originating from the shed roof must be located on the subject property.
3. Use of the shed must be subordinate to the residential use established within the single-family home; the shed may not be used as a dwelling unit.

#### **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**

<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

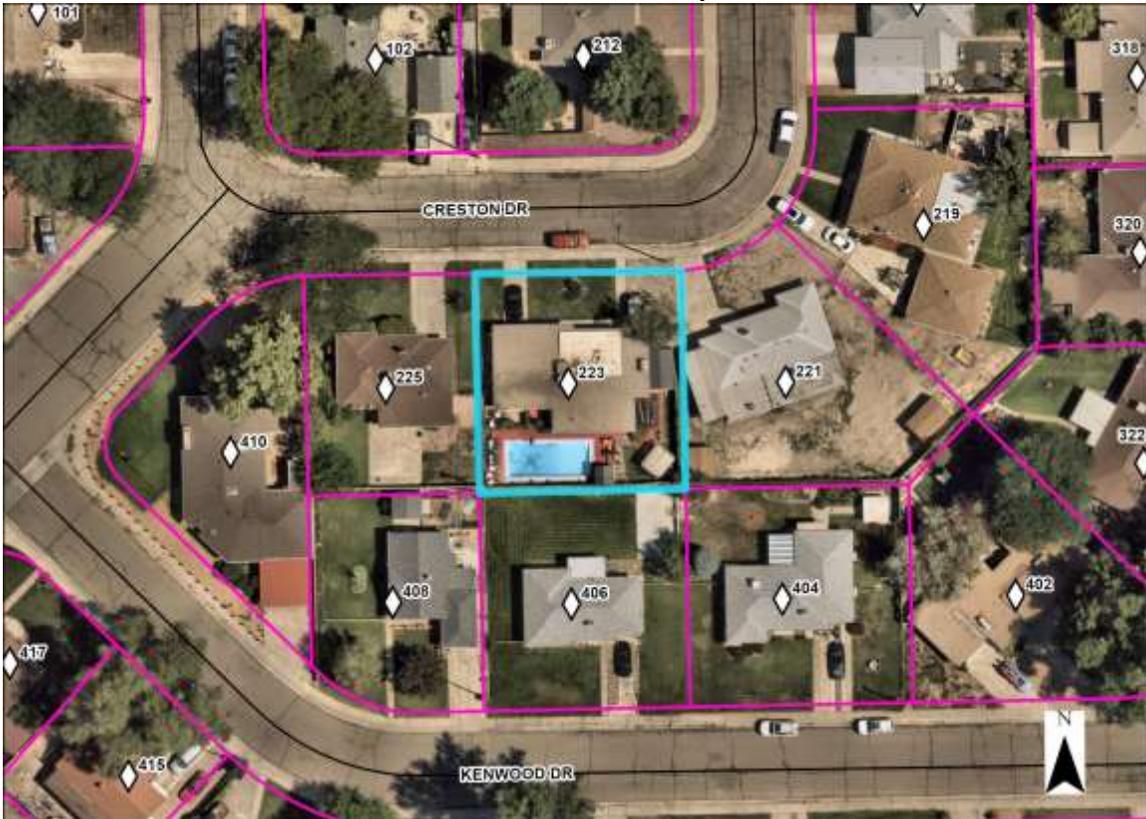


Exhibit C. Zoning Map



**Exhibit D. Comprehensive Plan Map**



**Exhibit E. Public Notice**



Exhibit F. Site Photos







**Exhibit G. Application**

 **City of Pueblo PLACE**

January 2, 2025

**25-4**  
Zoning Board of Appeals  
- Special Use Permit &  
Variances  
Status: Active  
Submitted On: 1/2/2025

**Primary Location**  
223 CRESTON DR  
PUEBLO, CO 81004

**Owner**  
WOOTEN JOHN A  
CRESTON DR 223 CRESTON DR  
PUEBLO , CO 81004-1613

**Applicant**  
 JOHN WOOTEN  
 719-334-0399  
 jawooten88@msn.com  
 223 CRESTON DR  
PUEBLO, Colorado 81004

H. Supporting Documents

233 Creston Dr.  
Front measurement from shed to sidewalk: 38 FT.  
Back measurement from shed to fence: 38 FT 3in.  
Shed Dimensions: 10 FT wide X 16 FT Long X 11 FT to peak.

