

EL PASO COUNTY



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PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Board of Adjustment
Kevin Curry, Chair

FROM: Ashlyn Mathy, Planner II
Edward Schoenheit, Engineer I
Meggan Herington, AICP, Executive Director

RE: Project File Number: BOA241
Project Name: 6875 Juanita Street - BOA setback and lot size relief
Parcel Number: 5208224010

OWNER:	REPRESENTATIVE:
Ladawna Smith ladawnaksmith@gmail.com	Ladawna Smith ladawnaksmith@gmail.com

Commissioner District: 1

Board of Adjustment Hearing Date:	7/24/2024
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EXECUTIVE SUMMARY

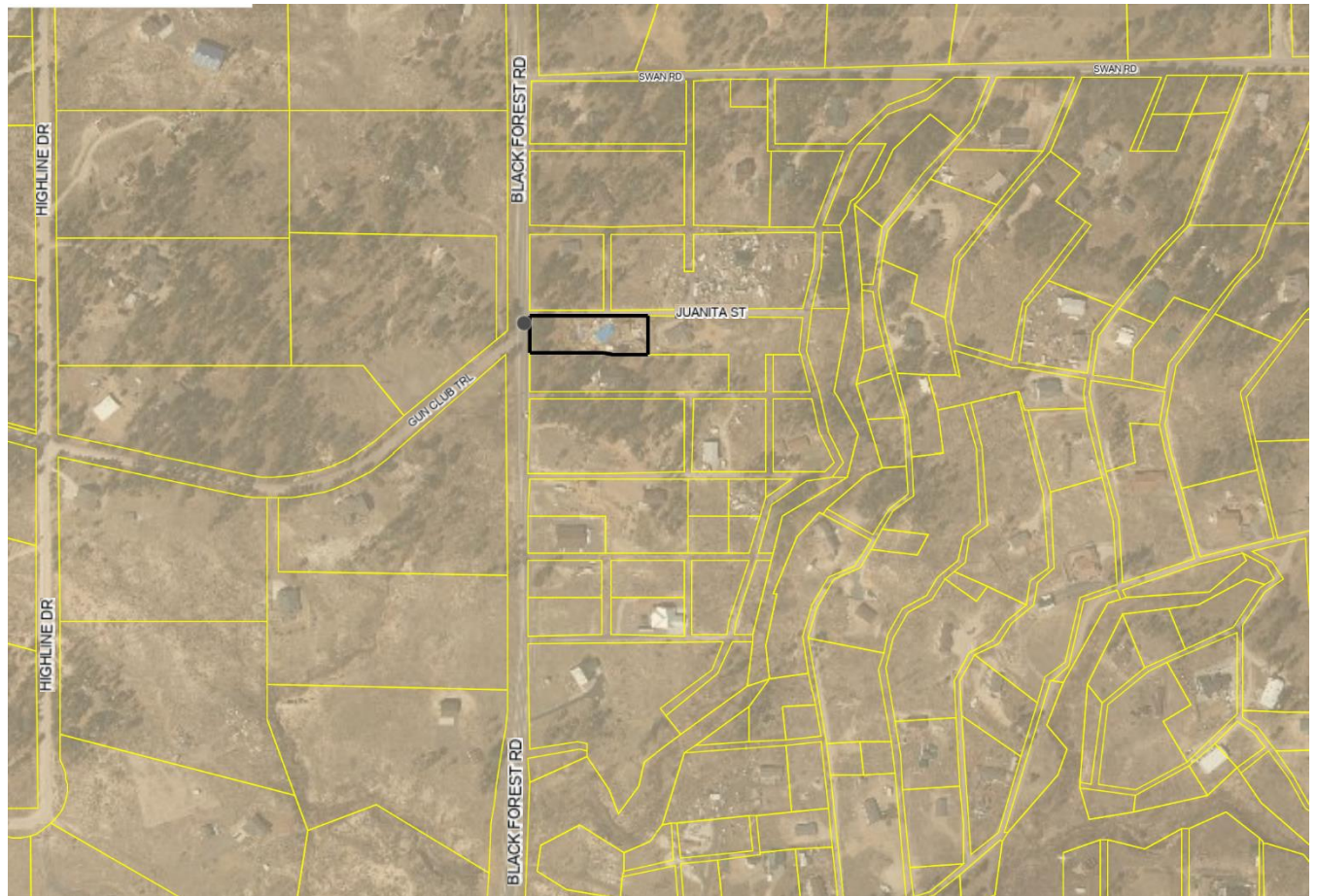
A request by LaDawna Smith for approval of a Dimensional Variance to allow a front setback variance of 10 feet where 25 feet is required and a lot size variance of 0.74 acres (32,263 square feet) where 5 acres is required in the RR-5 (Residential Rural) zoning district. The 0.74-acre (32,263 square feet) property is located at 6875 Juanita Street, at the intersection of Black Forest Road and Juanita Street. (Parcel No. 5208224010).

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Zoning Map



APPROVAL CRITERIA

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (As Amended), states the following:

The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to:

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- The exceptional narrowness, shallowness, or shape of the specific piece of property.
The lot is exceptionally small and narrow. Due to the property's creation predating the initiation of zoning for this portion of the County, the property can be considered a legal nonconformity with regards to zoning. Due to the creation of the property being outside the control of the applicant and the nonconforming status of the property, there may be a practical hardship with regards to the property's size and configuration.
- The exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.
There are no exceptional topographic conditions at the subject property.

However, Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Code continues by stating the following:

The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;

- The variance provides only reasonably brief, temporary relief; or
The variance would provide permanent relief; therefore, this criterion does not apply.
- The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or
The applicant has not provided an alternative plan that mitigates the anticipated impact or serves as a substitute to zoning requirements; therefore, this criterion does not apply.
- Some other unique or equitable consideration compels that strict compliance not be required.
Staff is not aware of any other unique circumstances that compel strict compliance to not be required.

A. BACKGROUND

The subject property was platted under Plat Number 871, known as the "Brentwood County Club and Cabin Sites Traction No.1", in August of 1926. This area was zoned to RR-5 in September of 1965. The lot was created prior to the zoning of the property,

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numerous parcels and lots in this area suffer the same inconvenience, due to blanket zoning of the RR-5 zoning district to this area.

The applicant recently purchased this property, the neighboring property, and did a Merger application, which is under file number MER242. By merging the two properties, the applicant is attempting to obtain substantial compliance with the code. Staff informed the applicant that the current home is in violation due the distance of the front setback. The current home is beyond the minimum of 20% of Administrative Relief threshold. A Board of Adjustment approval is required to bring the front setback and lot size into compliance with the code.

B. ANALYSIS

1. Land Development Code and Zoning Compliance

The subject parcel is zoned RR-5 (Residential Rural). The RR-5 zoning district is intended to accommodate low-density, rural, single-family residential development. The density and dimensional standards for the RR-5 zoning district are as follows:

- Minimum lot size: 5 acres (+)
- Minimum width at the front setback line: 200 feet
- Minimum setback requirement:
 - Front 25 feet (*)
 - Rear 25 feet (*)
 - Side 25 feet (*)
- Maximum lot coverage: 25%
- Maximum height: 30 feet

+ In the event that the land to be partitioned, platted, sold or zoned abuts a section line County Road, the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft.

* Agricultural stands shall be setback a minimum of 35 feet from all property lines.

C. ALTERNATIVES EXPLORED

There are two alternatives that would not require a Dimensional Variance request:

1. A Rezone application (Map Amendment) for a rezone from RR-5 to RR-0.5. However, this would not be a suitable option due to the surrounding area being composed of

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RR-5, spot zoning is not recommended. Additionally, this would not resolve the need for a front setback Dimensional Variance.

2. Moving the house further back from the property line could be an option for the applicant, however, moving plumbing and other housing items could be a complicated process for the applicant.

D. LOCATION

North:	RR-5 (Residential Rural)	Single Family Residential
South:	RR-5 (Residential Rural)	Single Family Residential
East:	RR-5 (Residential Rural)	Single Family Residential
West:	RR-5 (Residential Rural)	Single Family Residential

E. SERVICE

1. WATER

Water is provided by an onsite well.

2. WASTEWATER

Wastewater is provided by an onsite wastewater treatment system.

3. EMERGENCY SERVICES

The parcel is located within the Black Forest Fire Protection District. The District was sent a referral and has no outstanding comments

F. ENGINEERING

1. **FLOODPLAIN:** The property is not located within a floodplain as determined by a review of the FEMA Flood Insurance Rate Map number 08041C0315, effective December 7th, 2018. The property is in Zone "X" which is an area of minimal flood hazard determined to be outside the 500-yr flood zone.

2. **DRAINAGE AND EROSION:** The property is located in the Kettle Creek drainage basin. No drainage or bridge fees are applicable with Board of Adjustment request. A drainage report was not required to be submitted. Drainage on the lot flows from the east to the west towards Black Forest Road. The applicant has attested that the proposed project will not have an adverse impact on adjacent or downstream properties with respect to stormwater runoff. The applicant has purchased the

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adjacent property to the west which will alleviate stormwater runoff concerns due to previous grading and disturbance on the lot.

- 3. TRANSPORTATION:** The property is located directly at the southeast corner of Black Forest Road and Juanita Street. Juanita Street is a County maintained local gravel road. A Traffic Impact Study was not required with this application. The one single family residence on the lot is expected to generate approximately 9 trips per day. A single driveway access permit was previously approved for the lot on December 8th, 2021, under permit number AP211982. The property is subject to the El Paso County Road Impact Fee program. No public road improvements are required with the application.

G. RECOMMENDED CONDITIONS OF APPROVAL

Should the Board of Adjustment determine that the application is consistent with the criteria for approval of a Dimensional Variance for front setback variance of 10 feet where 25 feet is required and a lot size variance of 0.74 acres (32,263 square feet) were 5 acres is required, and that the applicant has met the review and approval criteria for granting variances from the applicable standards, staff recommends the following conditions and notations of approval:

CONDITIONS

- 1.** The approval applies only to the plans as submitted. Any expansion or additions to the current primary residence may require separate Board of Adjustment application(s) and approval(s) if the development requirements of the applicable zoning district cannot be met.
- 2.** Approval of any structure by the Planning and Community Development Department and issuance of a building permit from the Pikes Peak Regional Building Department is required prior to construction of any structure on the subject property. A building permit must be obtained for the current residence under construction.
- 3.** The property is subject to the El Paso County Road Impact Fee program (Resolution No. 19-471). El Paso County Road Impact fees to be paid 30 days after the approval of the Board of Adjustment hearing with a due date of August 24, 2024.

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4. NOTATIONS

1. Physical variances approved for a proposed structure (except for lot area variances) are valid only if construction of the structure is initiated within twelve (12) months of the date of the Board of Adjustment approval.
2. The PCD Director may require a survey, certified by a registered surveyor, licensed in the State of Colorado, depicting the improvement in relationship to the lot lines affected to demonstrate compliance with the Board of Adjustment approval.

H. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified 26 adjoining property owners on 7/3/2024, for the Board of Adjustment meeting. Responses will be provided at the hearing.

I. ATTACHMENTS

Letter of Intent
Site Plan



BOA241

To: El Paso County Board of Adjustment

Subject: SETBACK, HARDSHIP VARIANCE APPEAL

Presented by Anthony Ray Smith (719)344-5004 email ccicoloradosprings@wecanfixthat.com and LaDawna Kay Smith (719)459-6911 email ladawnasmith@gmail.com along with their contractor Bill from D & S Construction LTD (719) 492-7186 email bill64co@gmail.com representing the variance appeal to the Board of Adjustments on appeal for the Setback Hardship Variance Approval for the property at 6875 Juanita Street, Colorado Springs, CO 80908.

We respectfully come to the Board of Adjustments on appeal for a set back Hardship Variance Approval for our home at 6875 Juanita Street, Colorado Springs, CO 80908. We purchased our home April 26th, 2024 in hopes of making it our forever home. It is located in Brent Wood Country Club area which was established in the early 1900's where two men used hand tools to build a very narrow 8' road and small 400 sq ft cabins on ¼ acre lots. The road still remains a dirt road, not well maintained, very windy and varies in width throughout the development. The property up the road to the East (that butts up against our property) at 6909 Juanita is 10' from the property line and the next home down that road at 13385 Pine Drive is 12' from the property line. The narrow, steep lots of all three of these homes make it difficult to adhere to the 25' required easement for these properties.

Our property at 6875 Juanita Street would make it difficult to adhere to the 25' setback from the street. The steep slope of the property and the rain water runoff will need to be addressed, as noted on diagram. Room to properly landscape will make the water run away from our home. Without the proper amount of space, it would be difficult, especially on the South side of property to do this. The last 10'+ of the South side of property is a steep slope that is very hard to maintain and is really unusable space. We feel the 27' x 51' home is a good fit for this property as it is narrow home. The placement of the home on the property takes into account the septic placement as well as the existing rain runoff route.

Future plans for our property will include removing all debris (we are currently on our fourth 40' trash roll off) and all structures except the existing home. We hope to add a second story making it a total of 2754 sq ft two-bedroom home with a 10' front covered deck on the front of the upper story. Also, in the future we would like to permit and build a garage, approximately 27' x 38-40' to the East of our home, 25'+ from all property lines. We will move our portable chicken house and run to within our 25' setbacks after structures are removed. At this time, we are storing our tools and wood in them but will demolish them after we are able to build a garage to house those things.

We have also purchased the property at 13395 Black Forest Road (closed 05/14/2024) and that will be joined to our current property at 6875 Juanita Street making it a larger lot.

As a family, we are excited about this property being our long-term home and hope to make this property an asset to our community.

Thank you for your consideration!

Anthony and LaDawna Smith

