



RESOLUTION #3

STANDARD RESOLUTION FOR APPROVAL - NO HARDSHIP INVOLVED

LANGLAIS moved that the following Resolution be adopted:

BEFORE THE BOARD OF ADJUSTMENT

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. BOA-23-002

BARBARICK TRANSFER STATION - BOA SETBACK

WHEREAS, Kimley Horn Associates has requested a variance from the zoning regulations contained in the El Paso County Land Development Code for property located at 8812 Cliff Allen Point, Colorado Springs, CO 80908, in the I-3 zone district, which property is identified by El Paso County Tax Schedule No. 5233002013 and is legally described as follows:

LOT 4 AMENDED PLAT BARBARICK SUB

WHEREAS, the subject property is within the unincorporated area of El Paso County, Colorado; and

WHEREAS, Kimley Horn Associates have requested a dimensional lot size variance to allow a front and side setbacks (north and west sides of the property) of 35 feet to all adjacent properties for the use of "Waste Disposal and Recycling Facilities" in the I-3 (Heavy Industrial) zoning district per section 5.2.59.E.1.g of the Land Development Code. This request is asking for relief from the specific standards of section 5.2.59.E.1.g, not the dimensional standards which they do meet, where County regulations require a 100-foot minimum; and

WHEREAS, the Board of Adjustment is vested with the power to grant or deny such variances by virtue of Section 5.5.2 of the El Paso County Land Development Code and Sections §30-28-117 and §30-28-118, C.R.S.; and

WHEREAS, based on the evidence presented, the Board of Adjustment makes the following finding:

1. Proper notice procedures, including the notification of all adjoining property owners, have been completed by the El Paso County Planning and Community Development Department.
2. The variance will permit only those uses specifically enumerated as permitted uses for the zoning district in which the property is located.

3. The burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the subject property.
4. A unique or equitable consideration compels that strict compliance not be required; namely, that the applicant is proposing to move the building and use further from the adjacent residential property and closer to the adjacent industrial property.
5. The variance will not significantly impair the intent and purpose of the zoning regulations.
6. The variance will not cause a substantial detriment to the public good.
7. The variance will conform with all applicable federal, state, or other local laws or regulations.

NOW, THEREFORE, BE IT RESOLVED that the request for a variance from the El Paso County zoning regulations as more fully described above is hereby approved with the following conditions and notations:

#### CONDITIONS

1. The approval applies only to the plans as submitted. Any expansion or additions beyond those depicted on the associated site plan 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 the transfer station by the Planning and Community Development Department and issuance of a building permit from the Pikes Peak Regional Building Department is required prior to an addition or expansion of a residential property.

#### NOTATIONS

1. Physical variances approved for a proposed structure or use (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 or if the use of the property in the approved location does not cease for a continuous period of greater than twelve (12) months.
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 approval of the dimensional variance.

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WARNING: Any violation of the terms of this resolution may result in rehearing and possible revocation.

TANK seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: (circle one)

Clement	aye / nay / non-voting / <del>absent</del> / recused
Curry	<del>aye</del> / nay / non-voting / absent / recused
Langlais	<del>aye</del> / nay / non-voting / absent / recused
McSparren	<del>aye</del> / nay / non-voting / absent / recused
Morton	aye / nay / non-voting / <del>absent</del> / recused
Rexroad	aye / nay / <del>non-voting</del> / absent / recused
Tank	<del>aye</del> / nay / non-voting / absent / recused
Weber	aye / nay / non-voting / <del>absent</del> / recused
Wood	<del>aye</del> / nay / non-voting / absent / recused

The Resolution was adopted by a vote of 5 to 0 by the Board of Adjustment of the County of El Paso, State of Colorado.

DATED: April 26, 2023

By  \_\_\_\_\_

Printed Name: Kevin Curry

Title: BOA Second Vice-Chair

