

EL PASO COUNTY



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

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

FROM: Gabe Sevigney, Project Manager/Planner I
Beck Grimm, Engineer I
Craig Dossey, Executive Director

RE: BOA-18-003 Owens Accessory Structure
Assessor's Parcel No: 71170-05-006

| OWNER: | REPRESENTATIVE: |
|---|-----------------|
| Thomas P. and Lesa E. Owens P.O. Box 311 Monument, CO 80832 | |

Commissioner District: 3

| | |
|-----------------------------------|-----------|
| Board of Adjustment Hearing Date: | 6/13/2018 |
|-----------------------------------|-----------|

EXECUTIVE SUMMARY

A request by Thomas P. Owens and Lesa E. Owens for approval of a dimensional variance to allow an accessory structure to be built in front of the primary structure where it is not allowed in the RR-0.5 (Residential Rural) zoning district. The property is zoned RR-0.5 (Residential Rural) and is located on Limestone Road approximately 1.2 miles southwest of Highway 105.

Sub-note 15 of Table 5-4, Density and Dimensional Standards for Agricultural, Residential and Special Purpose Districts of the El Paso County Land Development Code (2016) states:

The side yard setback for an accessory structure shall be 10 feet, unless the structure is at least 60 feet from the front property line or nearest road right of way, where a 5 foot setback is allowed. In no instance shall an accessory structure be closer to the front property line than the principal structure.

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

impacts or serve as a reasonably equivalent substitute for current zoning requirements; or”

There are no anticipated impacts that would require an alternate plan, standard, or condition.

- *“Some other unique or equitable consideration compels that strict compliance not be required.”*

The primary structure was built approximately 155 feet from the front property line putting the rear of the house right at the ridgeline to maximize the views of the area. The ridgeline is not a straight line and pushes the accessory structure in front of the primary structure as indicated in the attached site plan. The proposed accessory structure, meets all other side and rear yard setbacks required for the zoning, moving the structure further north and behind the primary structure building line will result in the need to perform additional engineering and earth work at a significant cost to the applicant.

C. BACKGROUND

The parcel in question was created with the final plat of Red Rock Ranch Inc. on June 3, 1955. The property was originally zoned A-5 (Agricultural) then was rezoned to A-1 (Garden Home Half Acre) in 1981. This zoning district is now known as the RR-0.5 (Rural Residential) zoning district.

D. ALTERNATIVES EXPLORED

There are alternative options for the applicant that would not require a dimensional variance request:

1. Move the structure further north, removing the tree that is anchoring the ridgeline, thus allowing for construction of the structure behind the building line of the primary structure.
2. Attaching the garage to any portion of the house to the west or south, increasing the square footage of the primary structure and maintaining the required setbacks of 25 feet for the front setback in the designated zoning.

E. CONDITIONS OF APPROVAL

Should the Board of Adjustment determine that the application is consistent with the criteria for approval of a dimensional variance, and that the applicant has met the review and approval criteria for granting variances from the applicable standards, staff recommends the following conditions of approval:

3. TRANSPORTATION

The property is accessed via Limestone Road. A traffic impact study was not required due to the fact that the dimensional variance is not expected to generate 100 daily vehicle trips more than the property would be expected to generate without approval of the dimensional variance. There are no transportation issues identified with this request. No public roadway improvements will be required.

J. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven (7) adjoining property owners on May 22, 2018, for the Board of Adjustment hearing. Responses will be provided at the hearing.

K. ATTACHMENTS

Letter of Intent
Vicinity Map
Site Plan
Site Images
Contours Map
Neighbor Comment Letter
Owens' Rebuttal Letter

(2) Expanding west would require removal of a 30' specimen pine tree that is stabilizing the top corner of the hillside and preventing erosion at the NW corner of the driveway.

(3) The cost of removing the tree/stump (ref #2 above), destroying the land to remove the stump, stabilizing the foundation, contracting for erosion mitigation and re-landscaping the area where the tree stump would be removed makes this totally impractical, destructive, expensive and very unnecessary given the alternative.

(4) Building west will further create a major financial hardship on the owners because of the added cost for these necessities (above) and would generate additional expenses for architectural design, hiring additional contractors, concrete demolition and re-accomplishing soils and foundation engineering and re-pouring part of the existing concrete driveway parking area.

d. The proposed building site as shown on the site map is southwest of the front of the house and west of the existing driveway. It is an area with a four-degree up-slope and will easily accommodate a 24' x 36' garage without impacting drainage or erosion to the north and west of the site. Ample drainage around the foundation will direct moisture to the south and east, into an existing swale and away from the hillside to the west and north. Also, in order to reduce the impact that a new structure may have on our neighbors to the west, we have reduced the originally planned roof pitch and lowered the height of the roof ridge from 21' to approximately 16'. The garage will also be positioned as close to the ridge as possible (without moving the tree) to comply with our neighbor's request.

e. Considering the points above, the uneven and hilly topography of the property, the location of the house being at the farthest point from the road and backed onto a ridgeline, there is no other feasible location to site the garage other than where shown on the accompanying site map

4. The existing facility is the principal structure

The existing facility is the principal residence located approximately 175' to the north of the road. The proposed facility is the 24' x 36' garage shown on the elevation that is an exhibit to the application package. There are no proposed roads in this variance request

5. Waiver requests (if applicable) and Justification.

None, other than this proposed Variance request

6. The purpose and need for the change in zone classification. ***Not Applicable***

The owners are not requesting a variance to zone classification or to the set back requirements. The owners/ applicants are requesting a variance to Note #15 (Table 5-4 only) so the south end of the garage can extend beyond the front property line of the principal structure.

Downspouts on the garage roof will direct the drainage from the southeast corner of the garage down hill to the existing drainage culvert where any moisture not dissipated in the 150' long swale will be directed toward the street drainage ditch. Moisture from the downspout on the northeast corner of the garage will be directed to the rocky hillside to the north.

Thank you for your consideration and assistance,

Sincerely,

///SIGNED///

*Thomas and Lesa Owens
Owners/Applicants
4670 Limestone Rd
Monument, CO 80132*

Adjacent Neighbor

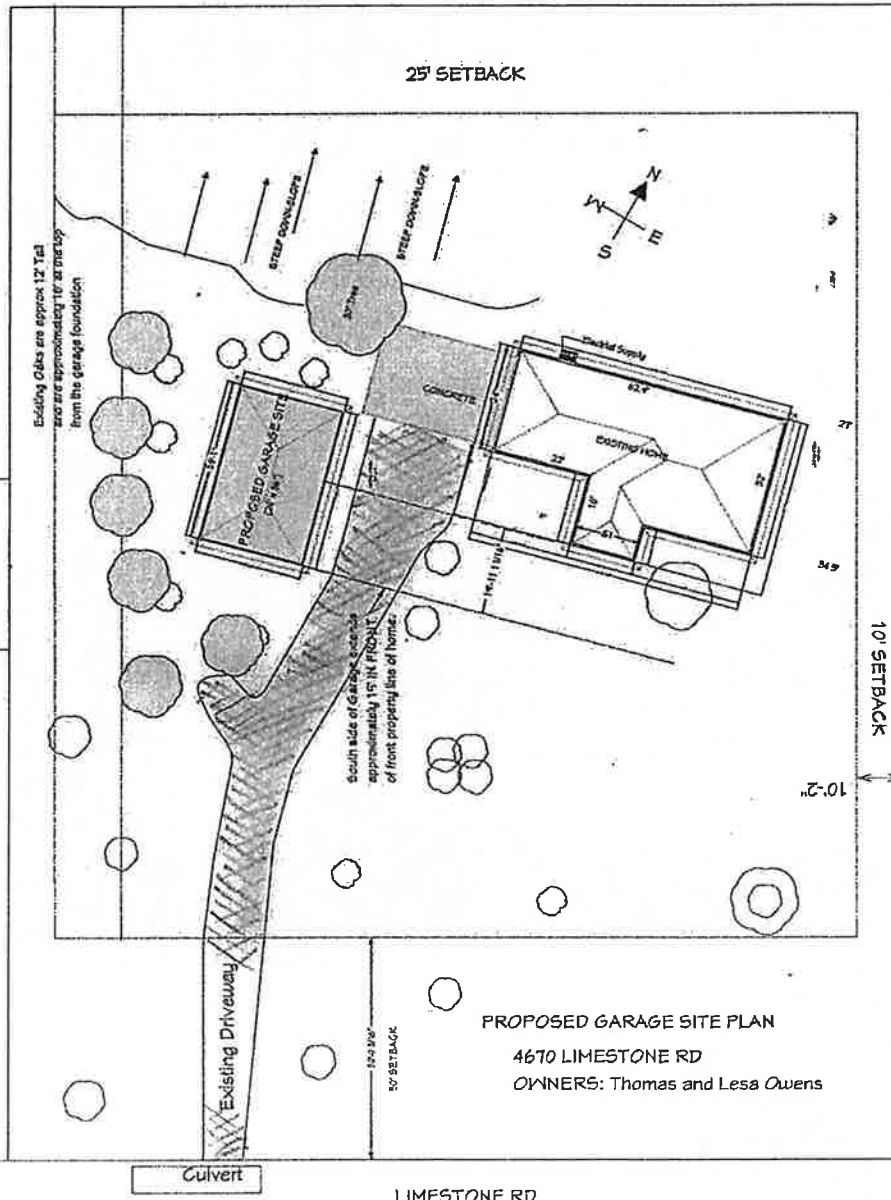
Tamara Benzelski
Thomas Benzelski
4430 Evans Rd
Monument, CO 80132
Owners: 4549 Redstone Ridge Rd
Monument, CO 80132

Adjacent Neighbor

David Bohn
Christopher Bohn
Ruth Ellen Bohn
4710 Limestone Rd
Monument, CO 80132

Adjacent Neighbor

Chris Abayta
Kimberly Abayta
4640 Limestone Rd
Monument, CO 80132



Adjacent Neighbor

Paul McKean
Rosalla McKean
4715 Limestone Rd
Monument, CO 80132

Adjacent Neighbor

Susan M Cottrell
4675 Limestone Rd
Monument, CO 80132

Adjacent Neighbor

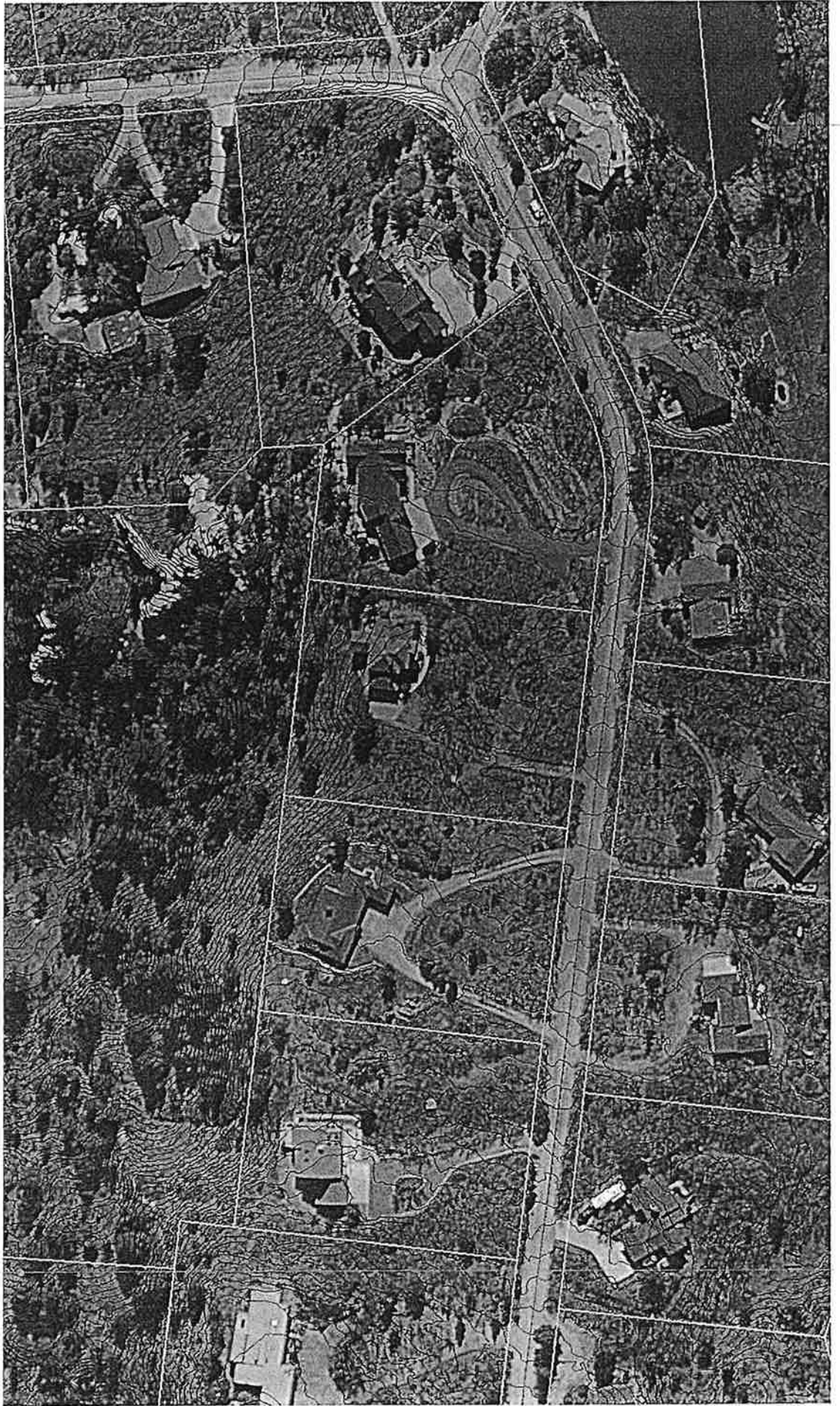
Brent A Carrington
Cindy K Carrington
4645 Limestone Rd
Monument, CO 80132



Drop off behind driveway



Proposed site at left (west) of driveway



FROM: David Paul Bohn
Christopher David Bohn
Ruth Ellen Bohn

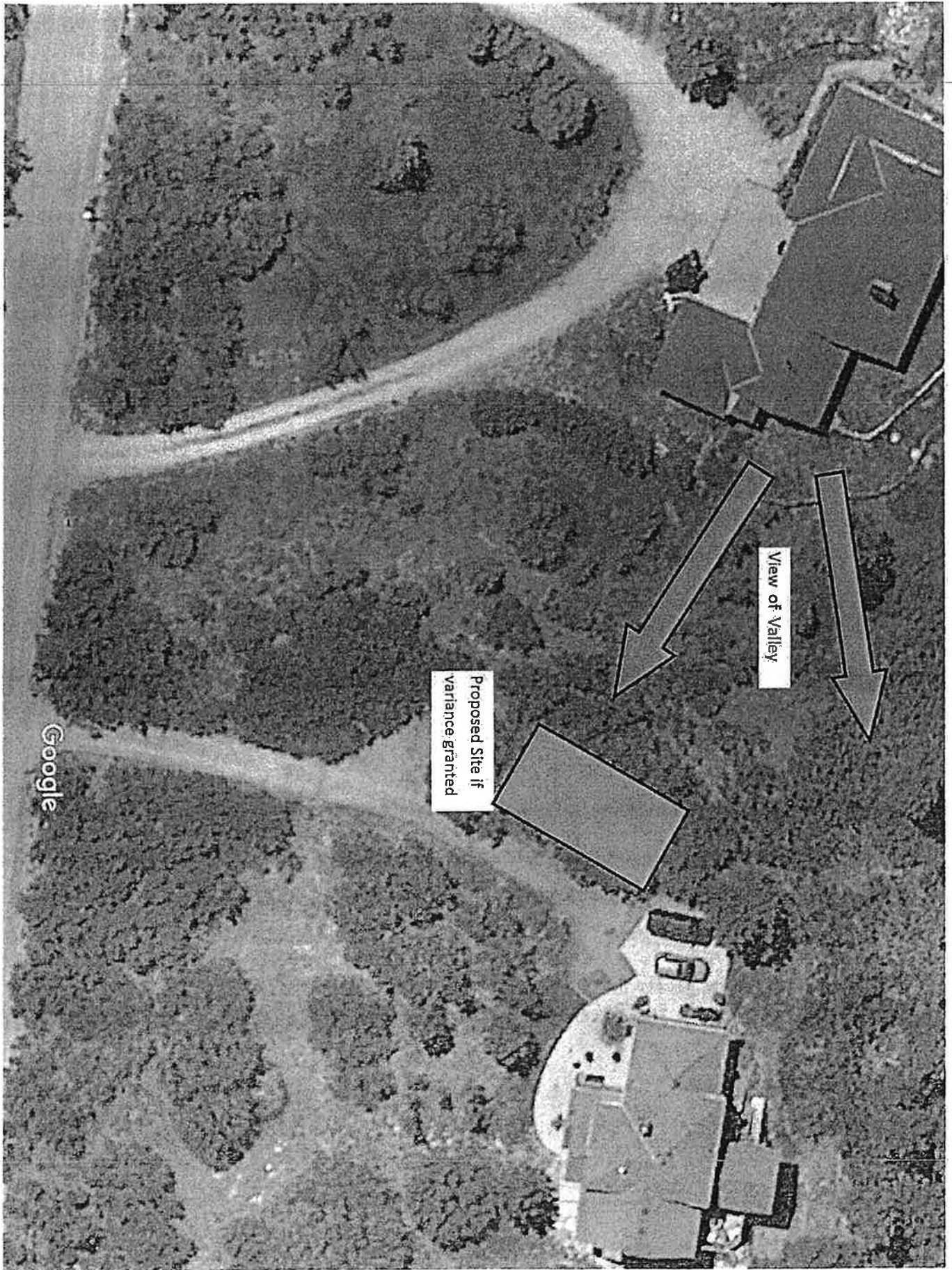
9 April 2018

4710 Limestone Rd
Monument, CO 80132

TO: Board of Commissioner El Paso County, CO

RE: Response to Letter of Intent, dated 23 March 2018, by Tom and Lesa Owens proposing a land use project in El Paso County at 4670 Limestone Road, Monument, CO 80132

1. We, David Paul Bohn, Christopher David Bohn, Ruth Ellen Bohn, are owners of 4710 Limestone Road, Monument, CO, 80132 ("4710 Limestone"), the property immediately west of Tom and Lesa Owens' ("Owens") property, 4670 Limestone Road, Monument, CO 80132.
2. We request that the variance proposal submitted by the Owens be denied for the following reasons:
 - a. **Irreversible Obstruction of Existing Valley Views That Materially Impairs 4710 Limestone's Property Value**
 - If the Owens are granted a variance to erect the non-conforming garage as proposed, the resulting building will impinge upon the views of the valley from the eastwards-facing bedroom of 4710 Limestone.
 - This obstruction of views is irreversible through perpetuity, and permanently impairs 4710 Limestone's value, which draws from its unobstructed vantage point of the valley East toward Monument and Colorado Springs.
 - While we are sympathetic to the Owens' desire to enhance their living conditions and resulting property value through this garage construction, we believe these gains accrued to the Owens should not, unfairly, be at the expense of us owners of 4710 Limestone.
 - b. **Violation of County Regulations Meant to Preserve Property Owners' Rights And Community Standards**
 - The El Paso County drafted the Use and Dimensional Standards ("Code") – that is publicly disclosed and legally binding – to establish a common understanding of how properties are built, located, modified and laid out, to protect individual property owners' rights.
 - If we objectively applied the Code to the Owens' proposal, the valley-facing views of 4710 Limestone are preserved given the denial of this proposed non-conforming garage.
 - We believe approving the Owens' proposal establishes a negative precedence that undermines the Code. Left unchecked, this results in a negative communal atmosphere where neighbors, emboldened by the Owens' successful appeal, seek approval to build and/or modify their properties in violation of the Code, and intrude on other homeowners' once-guaranteed rights.
 - c. **It Is Technically Feasible for the Owens To Construct a Garage That Confirms to Code**
 - We address the technical aspects of constructing the garage that conforms to Code in Section 3.
 - d. **Incurring Financial Costs To Conform To Code Is Not a Valid Reason For Variance Approval**
 - The incremental cost incurred by the Owens is not a valid reason for approving this request. As homeowners and fellow community members, we all agree to live within the building codes of our county notwithstanding the additional costs to comply with it.
 - Specific to this situation, we believe if the Owens are able to (i) plan and financially commit to a garage construction, and (ii) enlist an attorney to review the Code and seek a variance approval from the County Board, it is hard to imagine the marginal dollars required to align the proposed garage along the front of the principal structure, and conform to Code, places them in "major financial hardship".
 - Nonetheless, if conforming to Code indeed places the Owens in "major financial hardship", they can always elect to not undertake this optional construction project that invariably impairs the value of 4710 Limestone, which represents a meaningful share of our collective net worth.



Proposed Site if
variance granted

View of Valley

Google

21 April 2018

From: Thomas and Lesa Owens
4670 Limestone Road
Monument, CO 80132

TO: El Paso County Planning and Development Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910

RE: Response to the 9 April 2018 Letter (Exhibit 1) from the property owners (Bohns') at 4710 Limestone regarding the Owens variance request (4670 Limestone Rd, File # BOA183).

1. The Bohns' state that there will be "irreversible obstruction of existing valley views" *if a garage is built next door.*

- Mr Bohn has the elevations and site plan for the Owens garage. The garage ridge is approximately 16' (+-) from ground (driveway) level. That roughly corresponds to the tops of the existing trees located to the East of the Bohn's bedroom window. A roof ridge that is projected to be at a similar height as the tree-tops (which have existed for years) will no more "materially impair" the existing valley views than the trees currently do. In fact, the easterly views (their bedroom window view) have been "materially improved" due to the Owens' efforts to mitigate their overgrown property and remove trees, which Mr Bohn failed to mention. The site plan clearly illustrates the garage location being slightly to the North of 4710's window with the only portion coming into their view being the south end of the garage . . . not the entire garage (Exhibits 2a and 2b).

2. The Bohns' state that their "property value will be materially impaired as the result of a garage being built next door". It would have been helpful if he had quantified such a dire prediction.

- Location, neighborhood quality and home condition are the primary factors impacting a home's values. The north side of Limestone Road (where 4710 is located) is a very desirable location specifically because of the views to the North, West and to the South, not necessarily those to the East. Every home on Limestone Rd is situated to capitalize on the predominant views to the North, West and South. Most homes built along the ridgeline also impair, to some degree, the easterly views of their "down hill" neighbors (Exhibit 3). Views from the Owens dining room window are blocked almost completely due to their neighbor's roof (Exhibit 4) immediately outside the east window. This had no material impact on the property appraisal, assessment, appeal or sale price of the house in 2016.
- Current and projected home values (Ref: the *National Association of Realtors* and other publically available Real Estate sources) show:
 - An 11.8% increase in median sales prices for March 2018
 - Housing sales prices being .7% more than the asking price
 - A 3.7% YTD *decrease* in new listings
 - A 34.8% decrease in days on the market.
 - Zillow projects a 3.8% increase in property values within the next year.

- 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.”
 - The cost associated with building an addition is simply greater than building a stand-alone accessory building.
7. Reference to Para 3 of the Bohn’s letter, no response is necessary. The Bohn’s comments have been discussed either in the Notice to Adjacent Property Owner letter, or in Mr Owens statements elsewhere in this letter.
- Mr Bohn, however, did make one comment in Para 3c (his letter) regarding the large pine tree that anchors the northwest corner of the hill. Mr Bohn specifically said “do not remove that pine tree” while he and Mr Owens were discussing the project and the tree. Now, Mr Bohn states the polar opposite in his letter saying it is “hard to fathom” why the tree wouldn’t be removed? This is a total contradiction of his previous statement to Mr Owens.
8. Mr Bohn states “we look forward to engaging with the Owens in a constructive dialogue on how they can achieve their goal of constructing a garage without impacting 4710 Limestone and remaining in compliance with the Code”. *This is hardly the case.*
- It is incumbent upon the Bohns’ (not their neighbors) to initiate in dialog if they (Bohns’) had an issue with the proposed project. The Bohns’ have remained silent for the past 6 months and are clearly not interested in “engaging in constructive dialogue” with Mr Owens. Their “non-action” and efforts to avoid “constructive dialog” is self-evident.
 - The Bohns’ were notified during the summer of 2017 of the Owens’ intent to build. They had no objection then and have had ample time to “engage in dialog” if they were sincere in doing so.
 - The Bohns’ had the opportunity to “engage in dialog” while standing on the building site discussing the project with Mr Owens. Mr Bohn’s only request at that time was for the Owens to try and “move the garage further to the North if possible and to “NOT remove the tree.” The Owens complied with their request.
 - The Bohn ‘s had further opportunity to “engage in dialog” when they received the Notice to Adjacent Property Owners regarding the intent to build. Their response was a signed letter indicating no opposition (Exhibit 5).
 - The Bohn’s have had daily opportunities to “engage in dialog” which could have been done by simply ringing their neighbor’s doorbell (the generally accepted way neighbors communicate with each other). This is especially true when there are critical issues to discuss such as “impaired valley views and property devaluations.”
8. Based on Mr Bohn’s overt lack of interest in this project, or any objections to this project leading up to the variance submission, the Owens’ proceeded with the due diligence necessary to prepare for their project *if approved*. These efforts (obtaining contractor bids, accomplishing the soils test, and paying for engineering on the design, roof and foundation) could have easily been avoided, and plans modified, had Mr Bohn simply been forthright about his concerns and “engaged in constructive dialog” when he had the opportunity. However: