

**Weller Carport  
Dimensional Variance  
Letter of Intent**

**September 6, 2022**

**PREPARED FOR:**

Daniel Weller  
9040 Chipita Park Road  
Cascade, CO 80809

**PREPARED BY:**

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**Owner/ Applicant:** Daniel Weller  
9040 Chipita Park Road  
Cascade, CO 80809

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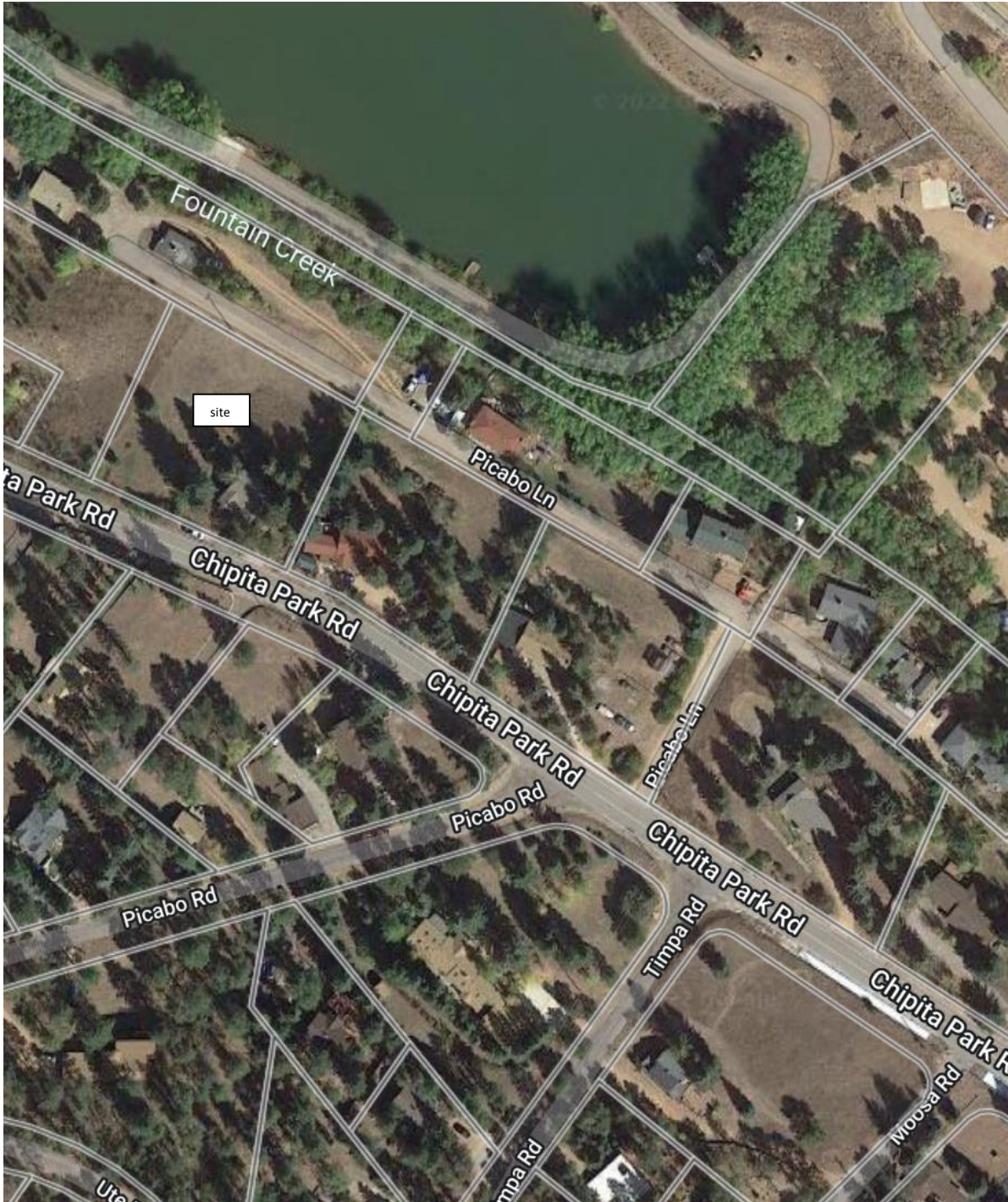
**Tax Schedule No:** 831530-0-069

**Acreage:** 32,670 square feet

**Site Location, Size, Zoning:**

Vertex Consulting Services, on behalf of Daniel Weller, is respectfully submitting a request for approval of a dimensional variance. The property is located approximately 900 feet south of the Chipita Park Road and Highway 24 intersection. The 0.75 acre property is zoned R-T and is located within the neighborhood commonly referred to as Chipita Park.

The property is surrounded by other nonconforming parcels and structures within the R-T Zoning District:



**Request:**

The applicant requests approval from the Board of Adjustment for a dimensional variance to:

1. Legalize a front setback of 1 foot for a carport where 25 feet is required,
2. Legalize a front setback of 20 feet where 25 feet is required for a single-family detached dwelling,

3. Legalize a lot size of 0.75 acres (32,670 square feet), where 5 acres is the minimum lot size within the R-T (Residential Topographic) zoning district.

**Justification:**

The dimensional variance request meets the criteria for approval included within Section 5.5.2 of the El Paso County Land Development Code. Each one of the requests will be analyzed separately for compliance with the following review criteria:

*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 (1) the exceptional narrowness, shallowness or shape of the specific piece of property, or (2) the exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.*

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

**Lot Size**

The Chipita Park neighborhood was largely developed at the time of the initial zoning by El Paso County to the R-T Zoning District on April 27, 1967. When the County zoned this area R-T it created nonconforming parcel sizes. The property is 0.75 acres in size, where the R-T Zoning District requires 5 acres. All immediately adjacent parcels are developed and nonconforming, therefore, a lot line adjustment or combination of lots to create a 5-acre parcel is not possible. The dimensional variance requests for the lot size meets the following review criteria:

*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... or other extraordinary or exceptional situation or condition of the piece of property.*

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

**Single-Family Dwelling Setback**

As discussed above, the Chipita Park neighborhood was largely developed at the time of the initial zoning by El Paso County to the R-T Zoning District on April 27, 1967. When the County

zoned this area R-T it created nonconforming setbacks. The home was constructed in 1957, ten years prior to the initial zoning. The setback of the home may be considered legal nonconforming; however, no formal determination has been made. Section 5.6 of the Land Development Code further describes the circumstances whereby a legal nonconforming structure may lose its legal status. Should the property be damaged to exceed 50% of the structure, it would no longer be considered legal, and the new structure would be required to meet the setback requirements. As there is no other suitable location for the home due to the drainage and slope issues described further below, the applicant requests to legalize the structure to allow for reconstruction in the event of a catastrophe.

The dimensional variance requests for the setbacks meets the following review criteria:

*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... or other extraordinary or exceptional situation or condition of the piece of property.*

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

#### Carport

The carport is not nonconforming and was constructed in 2022 in violation of the Land Development Code. However, a retaining wall was constructed numerous years ago to allow for this location to be utilized for the purposes of parking vehicles as there is no other location on the property that allows for the parking of vehicles.

The climate of Chipita Park can be more extreme at times. It is reasonable for a property owner to desire covered parking for their vehicle. There is a single car attached garage onsite, however, the garage is not large enough to park a vehicle inside. The only laundry facilities are located within the garage, which is 18 feet deep, leaving only 13 feet of clearance from the laundry facility to the garage door. Please see the image of the garage interior which illustrates how constrained this area is:





Should the applicant choose to construct a garage or carport elsewhere on the site, the garage would have to be abandoned due to the County limiting the points of access to one for all lots less than 2.5 acres in size.

Finding a suitable building location meeting the setback requirements would be impossible. The home and carport are constructed on the only level portion of the parcel. The land slopes significantly beyond the home. In addition to the slope, a major drainageway traverses the western half of the lot.

Construction within the 25-foot setback would require regrading most of the site to channelize the drainageway and to create a flat area for the garage.

Lastly, the applicant is a 100% disabled veteran. Walking across the property, or up a steep slope, proves to be challenging at times. Here is a statement from the property owner that further describes the disability:

“I was in a helicopter accident when training in the United States Army. As a result, I was medically retired from service after my first 4-year contract. My disability status with the VA is 100% permanently disabled (as bad as it gets). I have physical issues with my knees, elbow, shoulder, spine and neck. I also have PTSD but that has nothing to do with the carport. The issue that causes the most trouble for me physically is my back; it can go out at any time causing severe pain. The pain has been so severe that I have passed out. This has happened three times in the last 5 years. The last time was getting out of my car when I got home, and I ended up passing out partially in the road. My wife and children were so concerned when they heard this happened that my wife

bought a carport and my children came out and built it for me. The idea was to put a wall along the carport on the side which is closest to the road. This would ensure that I would not fall into the road again if my back went out entering or exiting my vehicle. However, the wall is no longer possible as rules dictate that carports cannot have walls anymore. Now I back in to the spot to ensure that when I am exiting the vehicle I am on the side farthest from the road.

The carport still provides me with a safe area to enter, exit, load, unload and work on my vehicle. There is not other place to put the carport on my property except for where it is, on the established parking pad. Our garage does not fit a car and my wife parks in the driveway as she is also a disabled veteran and needs that area more than I do. This leaves me with no other place to park except where the carport is. Keeping this carport has more to do with my safety than anything else.”

The site does not allow for a carport to be constructed elsewhere on the site. The dimensional variance requests for the setbacks meets the following review criteria:

*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 exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.*

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

#### *Alternatives Explored:*

##### Lot Size

1. Purchase Additional Land to Meet Setbacks

The surrounding parcels are all developed and substandard and do not meet the minimum lot size of five acres within the R-T zoning district. This is not an option as it would create new nonconformities.

2. Rezone the property

The surrounding area is within the R-T zoning district. Rezoning this individual parcel to RR-0.5 could be considered “spot zoning”. Additionally, rezoning the property to the RR-0.5 zoning district would not resolve the nonconforming setback issues that are present onsite as the front setback requirement in this zoning district is 25 feet.

##### Home

1. Relocate the Home

The home is site built and cannot be easily moved. The home would likely be damaged if it were to be moved. Additionally, there is no other level location on the property out of the drainageway, therefore, there is no other suitable building site.

##### Carport



1. Remove the carport.

This area of the county has historically experienced extreme weather patterns. It is necessary to have a covered area for vehicles. Additionally, the applicant is disabled, and it is challenging at times to navigate in inclement weather.

2. Construct the carport meeting the setback requirements.

As discussed above, there are no level areas outside of the drainageway that meet the setback requirements. Constructing the carport within the setbacks would require regrading the majority of the site.

3. Expand the existing garage to allow for parking a vehicle.

If the existing garage were to be expanded, it would result in a further encroachment of the home into the front setback.

Please see below for photographs which further illustrate the physical hardship:





