

# EL PASO COUNTY



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Board of Adjustment**

**FROM: Len Kendall, Planner I  
Beck Grimm, EI Engineer I  
Craig Dossey, Executive Director**

**RE: Project File #: BOA-19-001  
Project Name: Howland Barn  
Parcel No.: 31190-04-004**

**OWNER:**

**REPRESENTATIVE:**

Gregory and Linda Howland  
18065 Cumbres Road  
Peyton, CO 80831

Gregory Howland  
18065 Cumbres Road  
Peyton, CO 80831

**Commissioner District: 2**

Board of Adjustment Hearing Date:

3/13/2019

**EXECUTIVE SUMMARY**

A request by Gregory and Linda Howland for approval of a dimensional variance to allow a side yard setback of 5 feet where 25 feet is required in the RR-5 (Residential Rural) zoning districts. The 5.01-acre parcel was created via plat on October 4, 1973. The property is located at the southeast corner of the Cumbres Road and Cumbres Court intersection. The structure was built without approval of a residential site plan or a building permit. The property owner intended the structure to be an agricultural building, but did not have the approval of an agricultural building exemption. The structure was built in 2016. The property is encumbered by topographic slopes of greater than 30 percent surrounding the structure.



**A. REQUEST**

A request by Gregory and Linda Howland for approval of a dimensional variance to allow a side yard setback of 5 feet where 25 feet is required in the RR-5 (Residential Rural) zoning districts.

**B. APPROVAL CRITERIA**

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2018), 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:*

- 1) *The exceptional narrowness, shallowness, or shape of the specific piece of property.*

The property is not severely restricted due to exceptional narrowness, shallowness, or shape of the piece of property.

- 2) *The exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.*

The property is encumbered by areas of 30 degree or greater slopes, which could be considered an exceptional topographic condition.

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 does not provide reasonably brief or temporary relief.

- *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 variance request does not include 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. Staff recommends that the present existence of the structure on the property reasonably limits the applicants' options regarding financially feasible alternatives in terms of the siting of the structure that is the subject of this request.

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

The structure was built without approval of a residential site plan for an accessory structure and the property owners intended on meeting the 25-foot side-yard setback and have stated that they constructed the structure pursuant to an inaccurate survey.

**C. BACKGROUND**

The 5.01-acre parcel was created via platting on October 4, 1973. The parcel was initially zoned A-4 (Agricultural Farming) on August 16, 1973, which due to nomenclature changes over time is the present RR-5 (Residential Rural) zoning district. The property is located at the southeast corner of the Cumbres Road and Cumbres Court intersection. The structure was built in 2016 without approval of a residential site plan, or a building permit. The property owner intended the structure to be an agricultural building, but did not receive approval of an agricultural building exemption prior to construction.

**D. ALTERNATIVES EXPLORED**

There are four (4) alternative options by which the structure could come into compliance that would not require a dimensional variance request:

1. Move the structure so that it meets the required 25-foot side-yard setback requirement.
2. Apply for administrative relief of 20 percent of the required 25-foot side-yard setback and move the structure to meet the adjusted 20-foot side-yard setback.
3. Work with the adjacent property owner and apply for a boundary line adjustment to move the property line so that the structure meets the 25-foot side-yard setback.
4. Remove the structure.

**E. APPLICABLE RESOLUTIONS**

Approval: Resolution 1  
Disapproval: Resolution 2

**F. LOCATION**

North: RR-5 (Residential Rural)	Single-family residential
South: RR-5 (Residential Rural)	Single-family residential

East: RR-5 (Residential Rural)  
West: RR-5 (Residential Rural)

Vacant/Single-family residential  
Single-family residential

**G. SERVICE**

**1. WATER**

Water is provided by a private onsite well.

**2. WASTEWATER**

Wastewater is provided by a private onsite wastewater treatment system (OWTS).

**3. EMERGENCY SERVICES**

The parcel is located within the Peyton Fire Protection District. The District was sent a referral and have not responded.

**H. ENGINEERING**

**1. FLOODPLAIN**

FEMA Flood Insurance Rate Map (FIRM) panel 08041C0375G shows that the site lies within Zone X, an area determined to be outside of the 500-year floodplain

**2. DRAINAGE AND EROSION**

The site is located within the Upper Bracket Creek drainage basin. No drainage or bridge fees will be required with this dimensional variance request since the request does not include a platting action. No public improvements are required with this dimensional variance request.

**3. TRANSPORTATION**

The property is accessed via Cumbres Court. A traffic 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 the approval of the dimensional variance. No public roadway improvements will be required. The property has two legal access points. The primary access is for the residence and the secondary access is for the encroaching structure.

**I. 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 an accessory structure, and that the applicant has met the review and approval criteria for granting variances from the applicable standards, staff recommends the following conditions and notation of approval:

**Conditions**

1. The approval applies only to the plans as submitted. Any expansion or additions to the proposed accessory structure 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 a residential site plan for an accessory structure by the Planning and Community Development Department is required to establish the siting of the accessory structure.

**Notation**

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.

**J. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified six (6) adjoining property owners on 2/20/2019, for the Board of Adjustment meeting. Responses will be provided at the hearing.

**K. ATTACHMENTS**

Letter of Intent  
Vicinity Map  
Site Plan

## Letter of Intent

1. Gregory J. Howland  
Linda K. Howland  
18065 Cumbres Road  
Peyton, CO 80831  
478/731-1909  
478/361-3304

### 2. Site:

Lot 15 Peyton Pines, Filing No. 1, El Paso County, CO, as amended by affidavit of correction recorded October 25, 1973 in book 2632, page 326  
Assessor no. 3119004004  
5.08 acres zoned RR5

### 3. Request and justification:

Owners request variance of 25' setback regulation for existing 30'x50' barn built in March 2016. Owner had help from amateur surveyor establishing south property boundary. Due to topography of property this was the only reasonable site for building a barn. Backfill was required to build pad [slope of hillside north of barn in approximately 40% grade]. It was our intent to comply with 25' setback ordinance and thought we had when structure was built. Unfortunately our 'survey' was not accurate.

Drainage/runoff presents minimal if any impact to our neighbors' properties. North slope of barn roof has gutters draining on north side of building.

We have received clearance from Mountain View Electric for encroachment upon their easement and our neighbor to the south adjoining property does not have any issue with site of our barn.

We humbly request approval of our variance and apologize for our error.

Sincerely,



Gregory J. Howland  
Linda K. Howland

4. Please see attached map ~~nothing~~ <sup>nothing</sup> existing structures and access. There are no proposed new structures

5. n/a

# El Paso County Parcel Information

File Name: BOA-19-001

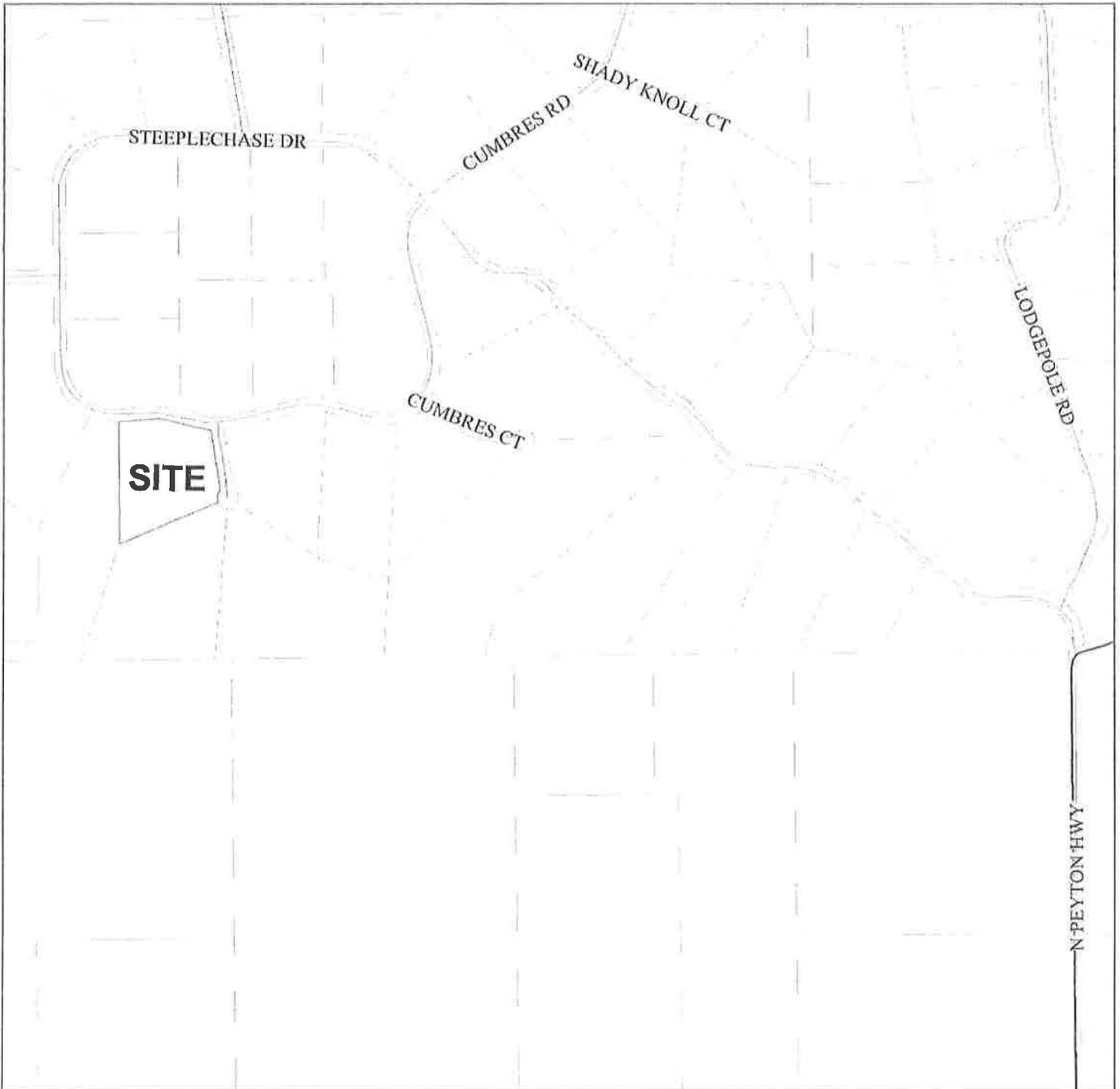
PARCEL	NAME
3119004004	HOWLAND GREGORY I

Zone Map No. --

ADDRESS	CITY	STATE
18065 CUMBRES RD	PEYTON	CO

ZIP	ZIPLUS
80831	9326

Date: FEBRUARY 20, 2019



Please report any parcel discrepancies to:  
 El Paso County Assessor  
 1675 W. Garden of the Gods Rd.  
 Colorado Springs, CO 80907  
 (719) 520-6600



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