

# EL PASO

COMMISSIONERS:  
DARRYL GLENN (PRESIDENT)  
MARK WALLER (PRESIDENT PRO TEMPORE)



# COUNTY

STAN VANDERWERF  
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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

December 18, 2017

K 2 Homes  
802 S. Nevada Ave.  
Colorado Springs, CO 80903

Re: ADM-17-031  
Parcel No.: 74104-00-044

To Whom It May Concern:

In response to your request for information regarding the above referenced property, we have researched our files and present the following:

The area in which the subject parcel is located was initially zoned on May 11, 1942. The M (industrial) zoning district is an obsolete zoning district and its purpose is for providing general industrial and manufacturing activities. The current residential allowances in the M zoning district is one single-family, detached dwelling as a special use, the El Paso County Land Development Code in 1970 allowed for residences in the M (industrial) zoning district.

The Board of Adjustment (BOA) approved (location only) a trailer home on the subject property within the M (Industrial) zoning district (BOA-58-057). The BOA approved an additional 1-family dwelling on the subject parcel addressed 2704 Howbert Street in 1964 (BOA-64-041). In 1970 in application file number EP-70-070-080 the BOA approved a variance to replace another mobile home, on a lot with two existing dwellings, a permanent cottage, and one mobile home. The applicant stated that when she purchased the property it was her understanding that she could have the two trailer houses and one small cottage on the property. The Board discussed this further and decided that because there will be no further non-conformance (three dwellings on the property) that the petition be granted.

The subject structure would be able to be rebuilt per the El Paso County Land Development Code (2016) Section 5.6.3 Restoration. This section states:

**(A) Damage to Structure**

A nonconforming structure damaged or partially destroyed by fire, explosion or natural occurrence may be restored to the condition in which it was immediately prior to the occurrence of the damage or destruction, provided:

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



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

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- The value of the damage is less than 50% of the County Assessor's assessed value of the improvements damaged;
- The restoration or reconstruction does not extend beyond the original limits of the structure in setback, lot area coverage, height, floor area, and number of bedrooms or bathrooms; and
- All restoration or reconstruction is started within one year from date of the damage and is completed within two years.

**(B) Intentional Damage by Property Owner or Agent**

The right to continue a nonconforming use terminates immediately when the structure containing a nonconforming use is destroyed by an intentional act of the property owner or their agent.

**(C) Restorations Exempt for Site Development Plan Review**

Restorations meeting the requirements of this provision are not required to undergo a site development plan review.

Due to the non-conforming nature of these structures, per the El Paso County Land Development Code, the structures on the subject property would fall under the provisions of Section 5.6.2 General Provisions, which states;

**(C) Interruption of Nonconforming Use**

If a nonconforming use is abandoned for a period of one year, the structure and land where the nonconforming use previously existed shall be occupied and used only by a conforming use. Intent to resume active operation of the nonconforming use shall not affect the foregoing. The burden of proof that a nonconforming use has been continuously maintained rests with the property owner or operator of the use. The evidence that an operation has been continuous shall be clear and conclusive. Any nonconforming use may be deemed abandoned after a period of less than one year if the property owner expressly states intent to abandon the use, or engages in action which unambiguously expresses intent to abandon.

If you have any further questions, please contact me at 719-520-6447.

Thank you,



Len Kendall  
Planner I

El Paso Planning & Community Development  
2880 International Circle  
Colorado Springs, CO 80910



BOA 58 057

JOHN WEST BROS. &amp; SONS CO., COLORADO SPRINGS, R2679

The following petitions and appeals were presented to the Board with action on each as shown; there being no objectors unless so noted:

1. Petition and appeal of Alfred Lord for permission to construct a carport 17' x 24' on a lot size 59.9' x 58.3' in a R-1 Residence District located at 1818 Midroad (Lot 2, Block 7, Stratton Park) partly within setbacks that do not conform with the zoning resolution. After discussion it was moved by Mr. Sayles, seconded by Mr. Mr. Straus and unanimously approved the petition be granted due to a hardship caused by the fact the lot is an irregular shaped lot.
2. Petition and appeal of Mrs. Clifford Pennington for permission to enclose a front porch 8' x 10' on a lot size 142' x 180' in a R-2 Residence District located at 2308 Wheeler St. (Lots 17 to 22 Inc. Block 16, Calvert Heights) partly within a front yard setback that does not conform with the zoning resolution. After discussion it was moved by Mr. Straus, seconded by Mr. Crumrine and unanimously approved the petition be granted due to the fact the area was platted prior to zoning, no further violation to the intent of zoning and more than 2/3 of the houses already non-conforming.
3. Petition and appeal of Clara Cimino for permission to move on a trailer home 8' x 33' on a lot size 40' x 120' in a C-2 Suburban Business District located at 3113 1/2 Virginia Ave. (Lot 7, Block D, Townsite of Papeton). This application is for approval of location only. After discussion it was moved by Mr. Crumrine, seconded by Mr. Straus and unanimously approved the petition be granted for location only.
4. Petition and appeal of Koscove Brothers for permission to construct a service station 15' x 20' with 1 pump island 3' x 15' on a lot size 1300' x 300' in an M-Industrial District located on the Old Pueblo Rd. (That portion of NW 1/4 of Section 28 and the NE 1/4 of Section 29, Twp. 14, Range 66 W) partly within a front yard setback that does not conform with the zoning resolution. After discussion it was moved, seconded and unanimously approved the petition be tabled until the next regular meeting due to the fact the petitioner failed to appear.
5. Petition and appeal of Ross E. Cox for permission to construct a 1-family dwelling 48' x 40.8' with partial basement on a lot size 75' x 100' in a R-1 Residence District located at 3601 Leeds Lane (Lot 10, Block 8, Huntington Heights) partly within a front yard setback that does not conform with the zoning resolution. After discussion it was moved by Mr. Straus, seconded by Mr. Brubaker and unanimously approved the petition be granted due to a hardship on a corner lot.
6. Petition and appeal of Paul J. Peats for permission to convert an building 14' x 30' to living quarters on a lot size 50' x 150' in a C-2 Suburban Business District located at 113 E. Arvada (Lot 10, Curtis Re-Sub & Addition to Blk 1, Brookside) partly within a side yard setback that does not conform with the zoning resolution. This petition was withdrawn by the petitioner.
7. Petition and appeal of Bernice Quinn for permission for a trailer home 10' x 50' on a 2.16 acre tract in an M-Industrial District located at 804 S. 27th St. (That portion of E 1/2 of the SE 1/4 of Section 10, Twp 14 S, Range 67). This application is for approval of location only. After discussion it was moved by Mr. Sayles, seconded by Mr. Crumrine and unanimously approved the petition be granted for location only.
8. Petition and appeal of Clifford Schoon for permission to construct a 1-family dwelling 24' x 42' on a lot size 90' x 100' in an M-Industrial District located at 700 S. 27th Street. This application is for approval of location only. After discussion it was moved by Mr. Sayles, seconded by Mr. Crumrine and unanimously approved the petition be approved for location only.
9. Petition and appeal of Charles F. Reid for permission to operate a trailer court to accommodate three trailers on a lot size 42' x 160' in a C-2 Suburban Business District located at 2020 E. Platte (Lots 17, 18, 19, 20, 21 & 22, Blk 42, 1st Addition to Knob Hill). This application is for approval of location only. After discussion it

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9. Petition and appeal of Harry Harper for permission to change the use of land to a trailer court (to accommodate 18 trailers) on a lot size 405' x 259.9' in an M-Industrial District located at 3600 N. El Paso Street (A portion of the SE 1/4 of the SE 1/4 of Section 30 in Township 13 South, Range 66 West). This application is for approval of location only.  
Mr. R. T. Thomas, attorney, represented this petition. He told the Board there had been approval of a trailer court in this location several years ago but had not been used.  
After discussion it was moved by Mr. Hook, seconded by Mr. Carson and unanimously approved the petition be granted since trailers are allowed in the M zone and the fact there are existing trailer courts in the area.
10. Petition and appeal of Earl Tjaden for permission to construct an open covered porch 17.3' x 7' attached to an existing dwelling on a lot size 65' x 100' in a R-1 Residence District located at 1133 Richards Ave. (Lot 12, Block 11, Stratton Meadows #5) partly within a front yard setback that does not conform with the zoning resolution. After discussion it was moved by Mr. Carson, seconded by Mr. Straus and unanimously approved the petition be granted provided it remain open and unenclosed.
11. Petition and appeal of Elmer B. Sievwright, Jr. for permission to construct a covered patio 14' x 36' on a lot size 69' x 112' in a R-2 Residence District located at 301 Rose Drive (Lot 12, Block 8, Security #8) Refiling of) partly within a rear yard setback that does not conform with the zoning resolution. After discussion it was moved by Mr. Crumrine, seconded by Mr. Carson and unanimously approved that the petition be granted provided it remains open and unenclosed.
12. Petition and appeal of R. Corwin Johnson for permission to construct a 1-family dwelling 56' x 44' with basement on a lot size 117' x 161.01' x 168.10' in a R-2 Residence District located at 3510 Temple Drive (Portion of Lot 1, Block 17, Assembly Grounds of the National Chautauqua Association) partly within a front yard setback that does not conform with the zoning resolution. After discussion it was moved by Mr. Straus, seconded by Mr. Crumrine and unanimously approved that the petition be granted due to hardship caused by the topographical condition of the lot.
13. Petition and appeal of Arnold Hatch for permission to construct an addition 12' x 15.5' to an existing non-conforming dwelling on a lot size 210' x 135' in a R-2 Residence District located at 515 Laurel Street (Part of SW 1/4 of the NW 1/4 of Section 3, Township 14 South, Range 67 West) partly within a front yard setback that does not conform with the zoning resolution. After discussion it was moved by Mr. Hook, seconded by Mr. Sawyer and unanimously approved that the petition be granted due to the fact there is no further violation to the intent of zoning.
14. Petition and appeal of J. C. Penkhus for permission to construct two (2) twelve (12) unit apartment houses, two stories in height (120' x 52') on a lot size 185' x 120' in an M-Industrial District located at 3201 and 3203 N. Hancock Ave. (North 185' of the South 215' of the West 155' of the NW 1/4 of the NE 1/4 of Section 32, Township 13 South, Range 66 West, except the West 35' of R/W). This application is for approval of location only. After discussion it was moved by Mr. Straus, seconded by Mr. Crumrine and unanimously approved the petition be granted for location only.
15. Petition and appeal of Orval Busch for permission to change the use of land to a trailer court to accommodate 5 trailers on a lot size 203.3' x 142.26' in a C-2 Suburban Business District located at the rear of 3400 N. Cascade Ave. (A portion of the NE 1/4 of the NW 1/4 of Section 31, Township 13 South, Range 66 West). This application is for approval of location only. After discussion it was moved by Mr. Hook, seconded by Mr. Straus and unanimously approved the petition be granted for location only.
16. Petition and appeal of Richard Bourne for permission to move on a 1-family dwelling 16' x 32' on a lot size 225.92' x 418.13' x 215' x 334.8' x 57' in an M-Industrial District located at 2704 Howbert Street (A part of the SE 1/4 of Section 10, Township 14 South, Range

67 West). This application is for approval of location only. After discussion it was moved by Mr. Crumrine, seconded by Mr. Straus and unanimously approved the petition be granted for location only.

17. Petition and appeal of A. E. Pezoldt for permission to construct an addition between two business buildings 19' x 56' on a lot size 150' x 385' in a C-2 Suburban Business District located at 3113 E. Highway #24 (Lots 1 thru 15, inclusive, except part of County, Block 12, Mount View Heights, Refiling) partly within a front yard setback that does not conform with the zoning resolution. Mr. John Ceresa appeared in person and objected the granting of this petition. He felt Mr. Pezoldt should clean up the area and put in sanitation facilities. After discussion it was moved by Mr. Straus, seconded by Mr. Carson and unanimously approved the petition be tabled until the next regular meeting. Mr. Pezoldt to present a letter from the City County Health Department as to the availability of sanitation facilities.

18. Petition and appeal of James Polley for permission to change the use of land to a junkyard with a 6 foot solid fence and solid gate for entry on a lot size 405.4' x 173' x 350' x 181.65' in an M-Industrial District located at 530 S. 30th Street (A portion of the SW 1/4 of the NE 1/4 of Section 10 in Township 14 South, Range 67 West). This application is for approval of location only. After discussion it was moved by Mr. Hook, seconded by Mr. Crumrine and unanimously approved the petition be granted. Mr. Polley to have adequate fencing to satisfy the building inspector.

It was then unanimously approved that the minutes of the meeting held on April 9, 1964 be approved. Also the special meeting held on April 16, 1964.

On a white ballot Mr. John Straus was elected Chairman of the Board. It was so moved by Mr. Sawyer, seconded by Mr. Hook.

Mr. Carson was elected Vice-Chairman. Mr. Hook moved, Mr. Sawyer seconded.

There being no further business to come before the Board the meeting was adjourned.

Respectfully submitted,

ATTEST:

Secretary

Chairman

THE EL PASO COUNTY BOARD OF ADJUSTMENT  
AUDITORIUM, COUNTY OFFICE BUILDING  
COLORADO SPRINGS, COLORADO

Minutes of the meeting held on June 11, 1964 at 2:00 P.M.

MEMBERS PRESENT: Mr. John Straus, Chairman  
Mr. B. E. Carson  
Mr. John Young, Jr.  
Mr. Larry Snedaker  
Mr. John Sawyer

ALSO PRESENT: Mr. Edwin Strand, Attorney  
Mr. Keith Smith, Bldg. Insp.  
Mr. Harold Isham, Planning Director  
Ethel Fyffe, Secretary

The following petitions and appeals came before the Board with action as shown; there being no objectors unless so noted:

TABLED PETITIONS

- I. Petition and appeal of Floyd Sellers for permission to construct an addition 9'6" x 14' to an existing non-conforming dwelling on a lot size 64'6" x 100' in a R-2 Residence District located at 3128 Virginia Ave. (Lot 23, Block 5, Virginia Homes Subdivision) partly



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and information introduced here leads to the conclusion that this business operation is a valuable and essential public service, and also from the fact that this entire Board has viewed the premises down there before it was in the complete condition as to fencing, as has been stated here today, I therefore move the Board approve petitions #2 and #3 on the agenda and further to add as an apparent reason: if the community is to be provided this kind of service there appears to be no alternative but to grant these petitions. The motion was seconded by Mr. Hunke and carried unanimously.

#### NEW PETITIONS

3. EPP-70-7.79  
Auto Wrecking Yard (Approval of Use)

Petition and appeal presented by I. Irving Harris for a variance and permit to establish an auto wrecking yard. Located at Lots 1 thru 8, 11, 12 and 15 thru 18, Block 1, Addition #3 to the Town of South Colorado Springs and addressed as 701 East Las Vegas Street, Colorado Springs and being in an "M" Industrial District.

This item was heard in conjunction with item #2. The motion for this item was included in the motion for item #2.

4. EPP-70-7.80  
Mobile Home (Replacement, as non-conforming use)

Petition and appeal presented by Elenor Berry for a variance and permit to replace with another mobile home on a lot with two existing dwellings, one a permanent cottage and one mobile home, on a non-conforming use of the lot. Located in a portion of the Southeast quarter of Section 10, Township 14 South, Range 67 West and addressed as 2704 and 2706 Howbert Street, Colorado Springs and being in an "M" Industrial District.

Elenor Berry was present to represent this petition. Miss Berry was asking if she could have permission to have a trailer house placed on the property on a spot formally occupied by a trailer house. There has been a trailer there for some time now. She stated that the one she would replace is still on the premise but is not occupied.

The Board asked Miss Berry how large the trailer was.

Miss Berry stated that the trailer was approximately 10 x 50.

Mr. Young asked how large the trailer was that was on the property.

Miss Berry stated it was approximately 8 x 25.

Mr. Heller asked what zone this property was in.

Miss Berry stated that it was in an M-Industrial Zone.

Mr. Tom Walters stated that when she came to get a permit from the Regional Building Department they told her that in order to replace the trailer she would have to get a variance from the Board.

Mr. Young asked if there would be any increase in the non-conformity.

Mr. Walters stated that there would be no more non-conformity than there was. There would still be three occupancies on the ground.

Mr. Young asked Miss Berry if there were 3 residential units there at that time.

Miss Berry stated that it was her understanding when she purchased the property that she could have the two trailer houses and one small cottage on the property.

Mr. Hunke asked what Miss Berry would do with the other trailer.

Miss Berry stated that she would not use the trailer for living quarters in any manner. It would be used strictly for storage.

After some further discussion, it was moved by Mr. Hunke and seconded by Mr. Heller that since there will be no further non-conformance that the petition be granted. The motion carried unanimously.

5. EPP-70-7.81  
Rear Yard Setback (New Dwelling)

Petition and appeal presented by Widefield Homes, Inc., for a variance and permit to construct a new dwelling, that extends 10 ft. into the rear yard setback area, reducing rear yard setback to 15 ft., where 25 ft. is required. Located at Lot 9, Block 2, in Widefield Country Club Estates and addressed as 212 De La Vista Street, Widefield, Colorado and being in an R-2 Residence District.

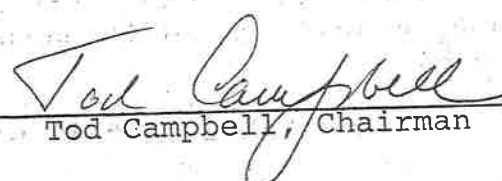
Mr. Hunke excused himself from the Board as a voting member.

Mr. Ray Hunke, Widefield Homes, Was present to represent this petition.

Mr. Hunke stated that they were asking for a variance on their corner lot. Mr. Hunke stated that because it is a corner lot and the way the house is positioned on the lot the rear door is not opposite the front door.

Mr. Tom Walters stated that the reason they are here is because the County Zoning Resolution states that the rear door will be directly opposite the front door.

After some further discussion, there being no objectors, it was moved by Mr. Heller and seconded by Mr. Sanborn that this petition be approved. The motion carried unanimously, with 4 votes.

  
Tod Campbell, Chairman