

EL PASO COUNTY
COLORADO

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Board of County Commissioners
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TO: El Paso County Board of Adjustment
Jay Carlson, Chair

FROM: Kylie Bagley, Planner II
Carlos Hernandez Martinez, Engineer I
Kevin Mastin, Interim Executive Director

RE: Project File #: BOA-21-007
Project Name: 1065 Rock Creek Canyon Road Dimensional Variance
Parcel No.: 75250-00-100

OWNER:

REPRESENTATIVE:

Javier and Dreama Ramirez
1065 Rock Creek Canyon Rd
Colorado Springs, CO 80926

Trinity Building Contractor, LLC
Timothy J. Belcher
PO Box 7061
Woodland Park, CO 80863

Commissioner District: 1

Board of Adjustment Hearing Date:

7/27/2022

EXECUTIVE SUMMARY

A request by Javier and Dreama Ramirez for approval of a dimensional variance to allow a front setback of 10 feet where 25 feet is required for a proposed attached garage. The 34,400 square foot property is zoned F-5 (Forest District) and is located on the south side of Rock Creek Canyon Road is within Section 25, Township 15 South, Range 67 West of the 6th P.M.



A. REQUEST

A request by Javier and Dreama Ramirez for approval of a dimensional variance to allow a front setback of 10 feet where 25 feet is required for a proposed attached garage.

B. APPROVAL CRITERIA

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2021), 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 subject property does not have exceptional narrowness, shallowness, size, or shape. The lot is 5 acres and conforms to the minimum lot size and minimum lot width requirements of the RR-5 zoning district.

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

The applicants stated in their letter of intent that there are no exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.

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*



If approved, the variance would provide for permanent relief and would not meet this criterion.

- *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*

An alternative plan, standard, or condition was not submitted by the applicants with this application.

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

The existing residential structure was built in 1977. When the structure was constructed, the front setback requirement within the F zoning district was 25 feet. According to a site plan provided by the applicant, the existing residential structure encroaches 8 feet into the required 25-foot front setback. The applicant is proposing to build an attached garage which would encroach 15 feet into the required 25-foot front setback. Please review the background section for additional information regarding previous approvals for the subject parcel.

C. BACKGROUND

The 34,400 square foot lot was legally created on November 4, 1968. The lot was created prior to subdivision regulations, which were adopted in Colorado on July 17, 1972. The property was zoned F (Forest and Recreation District) on May 10, 1942, when zoning was first initiated for this portion of the County (Reception no. 669212). Due to changes in the nomenclature of the Code, the F zoning district has been renamed as the F-5 (Forestry) zoning district.

The existing single-family dwelling was constructed in 1977. When the structure was constructed, the front setback requirement within the F zoning district was 25 feet. The home was constructed within the 25-foot front setback. According to a site plan provided by the applicant, the existing residential structure is located approximately 17 feet from the east property line.

The applicant is proposing to build an attached garage to the existing single-family dwelling. The attached garage is proposed to encroach approximately 15 feet into the required 25-foot front setback. The applicant is requesting a 10-foot front setback where 25 feet is required. If the request is approved for a 10 front



setback where 25 feet is required, both the existing and proposed addition to the structure would come into conformance with setback requirements.

D. ALTERNATIVES EXPLORED

There is one alternative that would not require a dimensional variance request:

1. The applicants could remove the existing single-family dwelling and reconstruct, meeting the current Code.
2. The applicant could build a smaller attached garage that would meet the current code.

E. APPLICABLE RESOLUTIONS

Approval: Resolution 3

Disapproval: Resolution 4

F. LOCATION

North:	F-5 (Forestry)	Single-Family Dwelling
South:	F-5 (Forestry)	Single-Family Dwelling
East:	F-5 (Forestry)	Single-Family Dwelling
West:	F-5 (Forestry)	Single-Family Dwelling

G. SERVICE

1. WATER

Water is provided by an existing permitted well located on the property.

2. WASTEWATER

Wastewater is provided by an existing permitted on-site wastewater treatment system (OWTS).

3. EMERGENCY SERVICES

The parcel is located within the Southwestern Hwy 115 Fire Protection District. The District was sent a referral and has no outstanding comments.

H. ENGINEERING

1. FLOODPLAIN

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0950G, which has an effective date of December 7, 2018, indicates the property is located within Zone X, areas outside of the 500-year floodplain.



2. DRAINAGE AND EROSION

This property is located within the Little Fountain Creek drainage basin (FOFO1800). The Little Fountain Creek drainage basin is a studied basin with associated drainage basin fees. No platting action is being requested; therefore, drainage fees are not due at this time. A drainage report was not required with this application.

3. TRANSPORTATION

The El Paso County 2016 Major Transportation Corridors Plan Update does not depict roadway improvement projects in the immediate vicinity of the development.

The parcel is located on Rock Creek Canyon Road, which is a rural-local road maintained by the County. No public improvements are required for this application. The parcel has an approved driveway access permit (AP211940) on file with the County.

The variance requests are not subject to the El Paso County Road Impact Fee Program (Resolution 19-471), as amended.

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 the existing single-family dwelling, and that the applicants 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 existing single-family dwelling may require separate Board of Adjustment application(s) and approval(s) if the development requirements of the applicable zoning district cannot be met.

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.
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 administrative relief.

J. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven adjoining property owners on 7/20/2022, for the Board of Adjustment meeting. Responses will be provided at the hearing.

K. ATTACHMENTS

Letter of Intent

Vicinity Map

Site Plan



Javier and Dreama Ramirez
1065 Rock Creek Canyon Road
Colorado Springs, Colorado 80926

To whom it may concern:

Javier and Dreama are proposing a land use project in El Paso County at 1065 Rock Creek Canyon Rd. Colorado Springs, CO 80926. We ask that a variance be set due to the topographical hardships and the restrictions of the land parameters. The 15' encroachment on the 25' side setback is being requested from the county of El Paso Colorado in order to attach a 2 ½ car garage to the address. The existing dwelling is positioned directly in the front of the side of a mountain leaving no room to build back any further. We are also requesting the variance for the existing dwelling from the 25' required setback to where it sits on site. *THE Existing structure encroaches the setback 8' feet.*

Granting this request will not have an adverse effect on any other lots. Vegetation removal will not be an issue because this lot is backed against the mountain at the rear of the home and has a rock wall along the side of the encroachment request. There would be limited excavation with no impact to existing wildlife. There will be no adverse impact to the existing drainage patterns.

In addition, there would be no impact on current traffic flow. There is a number of factors which would alleviate issues of roadway visibility issues. The first two are the bend in the road and the increased elevation, as it curves around the property. The third is the angle at which the addition would be attached to the existing house relative to the roadway.

The proposed addition will be built in the only available area within the boundaries of the property. Although this lot is zoned "F5", lot sizes 34,400 sq' to 5 acres is required, neither this lot nor any others along this road are five acres. The normal lot sizes are one to one in a half-acre with a few exceptions still not totaling five acres. The proposed structure would sit on the property in an area which cannot be used for anything except parking cars. All other homes in this canyon either have garages or carports with the exception of one.

This single-family dwelling was built into the setback as well as the adjacent lots. Rock Creek Canyon Road is a county owned, and per 2019 Road Book, Rock Creek Canyon Rd. Is classified as a rural local road maintained by the county. There are no underground utilities.

In addition to the lot size, the septic and leach field placement and access to both is such, there is no other area to place the proposed structure. The septic and topography hardships of this property restrict the landowners use. In addition, the parcels in this canyon were positioned in a way which has left several properties, including the Ramirez lot with a property pin marker either in the middle of, or completely across the road from the structure.

Holding the property owners in strict compliance with the current zoning requirements would result in massive excavation of the backside of the property. The effect would be a large increase in budget costs, wildlife habit encroachment, vegetation removal and destabilizing of the hillside. Pushing the proposed structure further back into the hillside would also negate the "attached" functionality. The property

owners would require to exist the home and enter through an exterior door to the addition, as opposed to entering the addition directly from existing home, aka an "attached garage".

All adjacent homeowners have been notified with no objections received. We request this variance be set as not disallow Mr. & Mrs. Ramirez the request of developing their own land. An approval will not only increase the functionality of their property, but it will also increase the property value. In turn would benefit the county through a property tax increase.

Thank you for your time and consideration,

Trinity Building Contractor





Planning and Community Development Department - SITE PLAN

Use for Additions to Property/Residence or Placement of Manufactured Homes/Mobile Homes

Applicant Name Javier & Dreama Ramirez 719-576-7218 XAVRAM@gmail.com
 Contractor Name Trinity Building Contractor 719-245-5842 trinitybuildingcontractor@gmail.com
 Property Address 1065 Rock Creek Canyon Road
 Zoning F-5 Parcel Number 7525000100 Legal Description Trac in SW 4 SW 4 SEC 15-15-17 AS FOLLOWS: COM AT CORNER OF SD SEC 25 T14 N84E 40' 247.03' E 65.49' 20' E 86.70' S D5 4.25' E 75.0' M16 TO A PT ON S LN OF SD SEC 14 ON SD SW 270.0' OF MR TO POB Ex Road
 Proposed Structure & Use 2 1/2 Car Garage / Gym sq. ft. 626
 Lot sq. ft. 34,400.00 Existing + new structure sq. ft. 4,814 % Lot coverage 14/100 height 16'

All Site Plans MUST include the following LEGIBLE minimum standards and drawn to a scale determined by applicant:

- Lot configuration and boundary measurements
- All streets, roads, or highways adjoining the property
- Dimensions & square footage of existing and proposed structures
- Building location with reference to distance from property lines
- Location of NO-BUILD areas, watercourses, drainage facilities
- Building setbacks, highways or rights-of-way
- Location of easements, driveway(s), well and septic system
- Contours if slope is greater than 10%
- Building coverage calculation (% of lot coverage)

Any approval given by El Paso County does not obviate the need to comply with applicable Federal, State or Local Laws or regulations. Planning and Community Development Department approval is contingent upon compliance with all applicable notes on the recorded plat. An access permit must be granted by the Planning and Community Development Engineering Division prior to the establishment of any Driveway onto a County road, or a waiver granted for access to a private road. Diversion or blockage of any drainage way is not permitted without the approval of the Planning and Community Development Engineering Division.

Fees are payable at the time of submittal and are **NON-REFUNDABLE**, regardless of approval or denial. Site Plans may be delayed or denied if information is omitted. **APPLICANT IS RESPONSIBLE FOR ACCURACY OF SITE PLAN**

Signature Timothy J. Belcher sp Trinity Building Contractor Date 4-5-2022

