


EL PASO COUNTY
COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

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

**FROM: Kylie Bagley, Planner II
 Edward Schoenheit, Engineer I
 Craig Dossey, Executive Director**

**RE: Project File #: BOA-21-008
 Project Name: 13120 Brentwood Drive
 Parcel No.: 52082-49-001**

OWNER:

REPRESENTATIVE:

William Lane 9438 Grand Cordera Parkway Colorado Springs, CO 80924	William Lane 9438 Grand Cordera Parkway Colorado Springs, CO 80924
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Commissioner District: 1

Board of Adjustment Hearing Date:	12/8/2021
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EXECUTIVE SUMMARY

A request by William Lane for approval of five (5) dimensional variances to allow:

1. A rear setback of 10 feet where 25 feet is required for a detached garage.
2. A front setback of 4 feet where 25 feet is required for a detached garage.
3. A rear setback of 7 feet where 25 feet is required for a single-family dwelling.
4. A front setback of 4 feet where 25 feet is required for a single-family dwelling.
5. A lot size of 17,900 square feet where 5 acres is required.

The property is zoned RR-5 (Residential Rural) and is located on the west side of Brentwood Drive, approximately one-half (1/2) mile northeast of the intersection of Brentwood Drive and Black Forest Road, and is within Section 8, Township 12 South, Range 65 West of the 6th P.M.

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



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

A. REQUEST

A request by William Lane for approval of five (5) dimensional variances to allow:

1. A rear setback of 10 feet where 25 feet is required for a detached garage.
2. A front setback of 4 feet where 25 feet is required for a detached garage.
3. A rear setback of 7 feet where 25 feet is required for a single-family dwelling.
4. A front setback of 4 feet where 25 feet is required for a single-family dwelling.
5. A lot size of 17,900 square feet where 5 acres is required.

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 property is 17,900 square feet in size, is irregularly shaped, and is approximately 75 feet at the widest area of the lot and 50 feet at the narrowest. The setback requirement is 25 feet on all sides, which allows for a structure 25 feet wide at the widest portion of the lot and does not allow for a structure at all within the narrowest portion of the lot. The proposed 832 square-foot single-family dwelling structure is 26 feet wide and the proposed 720 square-foot detached garage is 30.4 feet wide. The exceptional narrowness of the subject property presents a constraint such that there is not sufficient space on the property to allow for an adequately-sized single-family dwelling and a detached garage that meet the applicable setback requirements.

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

According to the applicant's letter of intent, the site is constrained by a ravine on the southern edge of the property. Upon site inspection staff did observe a

ravine on southern portion of the property that would prevent the applicant from placing the accessory structure in a location that would meet the required setbacks (see photographs attached).

The previously existing structure was destroyed in the Black Forest Fire in 2013. The applicant is proposing to use the existing concrete slab to reconstruct the detached garage. The previously constructed 760 square foot detached garage was constructed in 1995 following approval of a dimensional variance to allow a front yard setback of 4.1 feet where the requirement is 25 feet (PCD file no. BOA-95-021). The garage was not constructed in the same location as previously approved by the Board of Adjustment (see attached site plan) and the previous action also did not include a request for the rear setback encroachment. The previously constructed 780 square foot single-family dwelling unit was constructed in 1958 with a front yard setback of 17.1 feet.

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 applicant with this application.

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

Per the applicant's letter of intent, they purchased the platted property under the assumption that the lot met the lot size requirement and setbacks due to a variance that was approved in 1995 (PCD file no. BOA-95-021). The variance approval was to allow a front yard setback of 4.1 feet where the requirement is 25 feet. The garage was not constructed in the same location previously approved by the Board of Adjustment (see attached site plan) and the previous action also did not include a request for the rear setback. The single-family dwelling and detached garage were destroyed in the 2013 Black Forest Fire. The applicant is proposing to build the detached garage using the existing foundation, although not placed in the same location approved by the previous Board. The single-family dwelling is proposed to be setback 4 feet from the front property line where 25 feet is required.

C. BACKGROUND

The property was originally platted on August 16, 1926. The subject lot is 17,900 square feet in size. The property was initially zoned A-4 (Agricultural) on September 20, 1956. Due to nomenclature changes of the Land Development Code, the A-4 zoning district was renamed as the RR-5 (Rural Residential) zoning district. On April 24, 1995 a dimensional variance was approved to allow a front yard setback of 4.1 feet where the required setback was 25 feet (PCD file no. BOA-95-021). The detached garage was not constructed in the same location as was previously approved by the Board of Adjustment (see attached site plan) and the previous action also did not include a request for the rear setback. The detached garage was constructed in 1995 and the single-family dwelling was constructed in 1958. As discussed above, the structures were eventually destroyed in the 2013 Black Forest Fire.

D. ALTERNATIVES EXPLORED

There are three alternatives that would not require a dimensional variance request:

1. The applicant could purchase additional adjacent property and combine it with the current property so as to increase the overall acreage of the property in an effort to meet the minimum lot size and setback requirements.
2. The applicant could construct the single-family dwelling and detached garage using the same footprints of the previous single-family dwelling and detached garage that burned in the Black Forest Fire.
3. The applicant could construct the single-family dwelling and detached garage to meet the setbacks of the RR-5 zoning district, which would require construction of a significantly smaller and more narrow dwelling.

E. APPLICABLE RESOLUTIONS

Approval: Resolution 3

Disapproval: Resolution 4

F. LOCATION

North: RR-5 (Residential Rural)

Vacant

South: RR-5 (Residential Rural)

Single-Family Dwelling

East: RR-5 (Residential Rural)

Single-Family Dwelling

West: RR-5 (Residential Rural)

Vacant

G. SERVICE

1. WATER

Water is provided by an existing permitted well located on the property (Permit No. 281380--A).

2. WASTEWATER

Wastewater is provided by an existing permitted onsite wastewater treatment system (OWTS) (Permit No. 04850).

3. EMERGENCY SERVICES

The parcel is located within the Black Forest Fire Protection District. The District was sent a referral and has no outstanding comments

H. ENGINEERING

1. FLOODPLAIN

The site is not located within a defined floodplain as determined by staff following a review of the FEMA Flood Insurance Rate Map Panel No. 08041C0315G, effective on December 7, 2018.

2. DRAINAGE AND EROSION

The property is located within the Kettle Creek drainage basin (FOMO3000). Drainage basin and bridge fees are not applicable since there is no new platting or subdivision action. The setback variance application is not required to include a drainage report or a grading and erosion control plan. Soil disturbance will be minimal to rebuild previously established residential type/size structures. Lot grading will not be necessary.

3. TRANSPORTATION

The property is accessed from Brentwood Drive, currently classified as a County maintained unpaved urban local road. Brentwood Drive is not identified as part

of the El Paso County 2016 Major Transportation Corridor Plan (MTCP) for future road improvements. County Road impact fees are not applicable as the variance of use approval and building permit will be issued to reestablish a use or rebuild a structure that was destroyed or demolished and that legally existed at the time of such destruction or demolition. The Brentwood Drive right-of-way width is not clearly established along the properties eastern lot line. A survey is recommended to determine the correct right of way width and alignment with respect to the property. A driveway permit has been previously approved for only one access point. No Traffic Information Study (TIS) is required pursuant to Section B.1.2.D of the El Paso County Engineer Criteria Manual.

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 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 beyond those depicted on the associated site plan 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 site plan by the Planning and Community Development Department and issuance of a building permit from the Pikes Peak Regional Building Department are required prior to construction of the proposed structures.

NOTATIONS

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 10 adjoining property owners on November 15, 2021, for the Board of Adjustment meeting. Responses will be provided at the hearing.

K. ATTACHMENTS

Vicinity Map

Letter of Intent

Site Plan

BOA-95-021 Site Plan

Site Photographs

El Paso County Parcel Information

PARCEL

5208249001

File Name: BOA-21-008

Zone Map No.: --

Date: November 12, 2021



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
819) 520-6600



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Letter of Intent

November 10, 2021

Owner: William Lane

Mailing Address: 9348 Grand Cordera Pkwy, Colorado Springs, CO 80924

Phone: 719-492-0473

Email: w.kerry.lane@gmail.com

Site Location: 13120 Brentwood Dr, zoned RR-5 and is 17900 sf. TID: 52082-49-001

Request: I am requesting a lot area variance of 17900 sf as well as front setback variance of 4', and rear setback variance of 7' for the single-family detached dwelling. For the detached garage I am also requesting a front setback variance of 4' and rear setback variance of 10'. Current side setbacks for both the garage and house are +25'.

There was previously a variance approved in 1995 for a lot variance of 17,900sf as well as a setback of 4.1 feet where the front yard requirement is 25 feet for a garage. The previous structure burned down in the Black Forest fire of 2013. The property was platted as part of Brentwood Country Club Cabin Sites in August 1926. I am requesting to re-build a single-family dwelling unit that differs by a small degree of positional rotation from the previously-built structure and approved 1995 variance in order to maximize window orientation for comfort and heating efficiency.

Existing and Proposed facilities, structures, roads: The existing concrete pad for the garage that was approved as part of the 1995 variance is still in existence. I will be utilizing this existing foundation for the garage on the property. Brentwood Road is an existing county road, which will be taken access from.

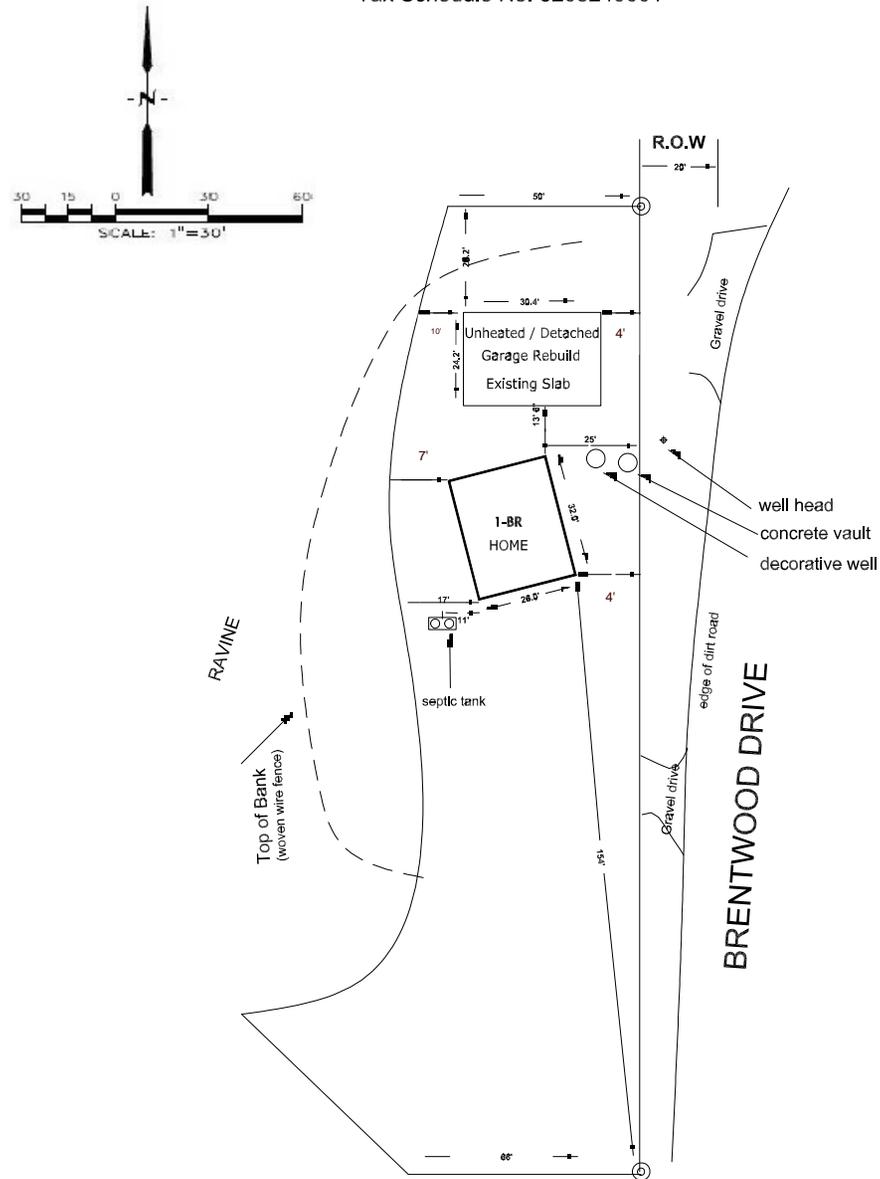
There exists a hardship with this property as it was platted a very long time ago and, as I understand, before there existed zoning requirements. There simply is not enough space from property line designations due to the obscurity in shape of the parcel. Likewise, although there is 0.41 acres of land, the usable area is less as a large portion of the south edge of the property is ravine and all built structures must be constructed on the north side. The 20' ROW on the east edge of the property, provides additional distance setback from the road, although disallowed to use as part of meeting setback criteria. My proposed house is quite small in size, as was the previous structure.

Respectfully submitted,
William Lane

LOT C25, BRENTWOOD COUNTRY CLUB AND CABIN SITES TRACT NO.1

13120 Brentwood Drive, Colorado Springs CO 80908

Tax Schedule No. 5208249001





SCALE: 1" =

NOTE: Westerly property line as determined from plat per applicant's consultant.

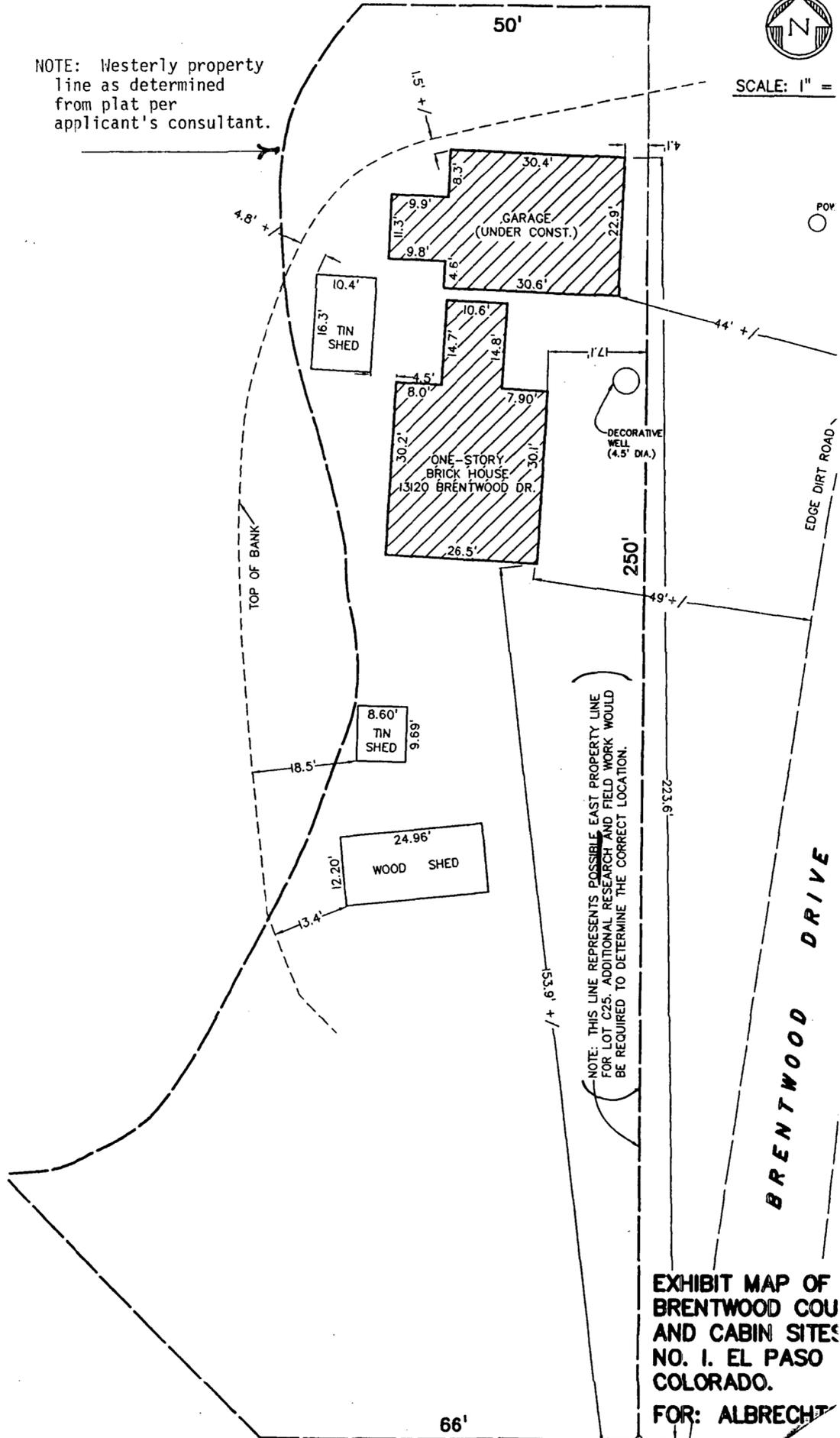


EXHIBIT MAP OF BRENTWOOD COU AND CABIN SITES NO. 1. EL PASO COLORADO.

FOR: ALBRECHT







BSS-T01
COLORADO

Presidential